

**LOCAL RULES
OF THE
UNITED STATES BANKRUPTCY COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE**



*, 2006

<www.nhb.uscourts.gov>

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE**

GENERAL ORDER RE: LOCAL BANKRUPTCY RULES

WHEREAS, as authorized by 28 U.S.C. §§ 2071 and 2077, Rule 9029 of the Federal Rules of Bankruptcy Procedure, Rule 83 of the Federal Rules of Civil Procedure and Rule 77.4 of the Local Rules of the United States District Court for the District of New Hampshire, the Court has reviewed and revised its Local Bankruptcy Rules and Administrative Orders; and

WHEREAS, in compliance with 28 U.S.C. § 2077(b), the Court has appointed an advisory committee for the study of the rules of practice and internal operating procedures of the Court and has received recommendations from the advisory committee on such rules and procedures; and

WHEREAS, in compliance with 28 U.S.C. § 2071(b), the Court has given the public appropriate notice and an opportunity for comment upon the proposed revisions to the Local Bankruptcy Rules; it is hereby

ORDERED this * day of *, 2006, that the annexed “Local Rules of the United States Bankruptcy Court for the District of New Hampshire,” as amended, are hereby prescribed and promulgated and shall take effect on *, 2006, and shall apply to all bankruptcy cases and proceedings then or thereafter pending in this Court, insofar as just and practicable; and it is further

ORDERED that all prior local bankruptcy rules and administrative orders are repealed, except any administrative orders that relate only to a specific case and the Interim Bankruptcy Rules adopted on October 14, 2005, upon the effective date of these Local Bankruptcy Rules; and it is further

ORDERED that the clerk, in compliance with 28 U.S.C. § 2071(d), shall cause a copy of these Local Bankruptcy Rules to be delivered to the Judicial Council of the Court of Appeals for the First Circuit and to the Director of the Administrative Office of the United States Courts; the clerk shall post a copy of this Order in the clerk's office; and the clerk shall forthwith cause a notice regarding the adoption of these amended Local Bankruptcy Rules to be published in the *New Hampshire Bar News*, indicating copies of the same are available upon request, and on the Court's web site at <www.nhb.uscourts.gov>.

DATED AND FILED this * day of *, 2006.

BY THE COURT:

/s/ Mark W. Vaughn
Mark W. Vaughn
Chief Judge

/s/ J. Michael Deasy
J. Michael Deasy
Bankruptcy Judge

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PREFACE

These Local Bankruptcy Rules shall be cited as “LBR.” The Local Rules of the United States District Court for the District of New Hampshire shall be cited as “LR.” The Bankruptcy Rules promulgated by the Supreme Court of the United States shall be cited as “Bankruptcy Rule.” Title 11 of the United States Code shall be cited as “Bankruptcy Code.” The Administrative Orders promulgated by the United States Bankruptcy Court for the District of New Hampshire shall be cited as “AO.” The Local Bankruptcy Forms promulgated by the United States Bankruptcy Court for the District of New Hampshire shall be cited as “LBF.” The Interim Bankruptcy Rules adopted by this Court on October 14, 2005, shall be cited as “IBR.”

Part I

**Commencement of Case;
Proceedings Relating to Petition
and
Order for Relief**

PETITION — GENERAL

(a) *Filing.* A petition commencing a case under the Bankruptcy Code shall be filed in the clerk's office or by electronic means as established by the Court.

(b) *Format.* A petition commencing a new case shall conform substantially to Official Bankruptcy Form 1 and shall be completed legibly in all respects. All information requested or provided for in Official Bankruptcy Form 1 or by Bankruptcy Rule 1005 shall be completed by the petitioner. All petitions must be formatted to 8½" x 11" and will be accepted for filing if the information requested in Official Bankruptcy Form 1 and Bankruptcy Rule 1005 and the following are included:

- (1) Filing fee.
- (2) Chapter number under which the petition is filed.
- (3) Last four digits of the Social Security number for an individual debtor or complete tax identification number, if not an individual.
- (4) Creditor matrix.
- (5) In Chapter 11 cases, in addition to the list required by Bankruptcy Rule 1007(d), a list of the twenty (20) largest unsecured creditors (excluding insiders) prepared in the same format as the creditor matrix.
- (6) Petitioner's signature on original.
- (7) Attorney's disclosure of compensation form.
- (8) Certificate of credit counseling, if applicable.
- (9) If the petition is filed without schedules and statements, it shall be accompanied by the matrix required by (4) above, a list of creditors and the list of twenty (20) largest unsecured creditors as required in (5) above.

Cross-References:

- 28 U.S.C. § 1930 (*Bankruptcy Fees*)
- LBR 1006-1 (*Fees — Installment Payments*)
- LBR 1007-2 (*Mailing — List or Matrix*)
- LBR 2016-1 (*Compensation of Professionals*)
- LBR 5005-4 (*Electronic Filing*)
- LBR 5080-1 (*Fees — General*)
- LBR 5081-1 (*Fees — Form of Payment*)
- AO 5005-4 (*Electronic Filing*)

PETITION — PARTNERSHIP

(a) *Separate Entity Requirement.* The clerk shall not accept for filing a single petition in bankruptcy referring to both a partnership and the individual partner or partners. If separate filings are intended by an individual partner or partners as well as the partnership, separate petitions are required by each entity.

(b) *Necessity of Retaining Counsel.* The clerk shall not accept for filing a voluntary petition to commence a case if the debtor is a partnership unless the debtor is represented by an attorney who has signed the petition. The clerk shall not accept for filing an involuntary petition to commence a case if a petitioner is a partnership unless the petitioner is represented by an attorney who has signed the petition.

Cross-References:

- *LR 83.6 (Appearances)*
- *LBR 1007-1 (Lists, Schedules and Statements)*
- *LBR 1004-2 (Petition — Corporation)*
- *LBR 1004-3 (Petition — Trust, Limited Liability Company)*
- *AO 5005-4(d) (Electronic Filing, Signatures and Declarations Regarding Electronic Filing)*

PETITION — CORPORATION

(a) *Separate Entity Requirement.* The clerk shall not accept for filing any petition in bankruptcy by an individual doing business as a corporation. A separate petition must be filed by each entity.

(b) *Necessity of Retaining Counsel.* The clerk shall not accept for filing a voluntary petition to commence a case if the debtor is a corporation unless the debtor is represented by an attorney who has signed the petition. The clerk will not accept for filing an involuntary petition to commence a case if a petitioner is a corporation unless the petitioner is represented by an attorney who has signed the petition.

(c) *Corporate Resolution.* The clerk shall not accept for filing a voluntary petition to commence a case if the debtor is a corporation unless the petition is accompanied by a corporate resolution or certificate of corporate vote that authorizes the filing of the bankruptcy petition.

Cross-References:

- *LR 83.6 (Appearances)*
- *LBR 1004-1 (Petition — Partnership)*
- *LBR 1004-3 (Petition — Trust, Limited Liability Company)*
- *LBR 1007-1 (Lists, Schedules and Statements)*
- *AO 5005-4(d) (Electronic Filing, Signatures and Declarations Regarding Electronic Filing)*

PETITION — TRUST, LIMITED LIABILITY COMPANY

(a) *Separate Entity Requirement.* The clerk shall not accept for filing a single petition in bankruptcy referring to both a trust and the individual trustee or referring to both a limited liability company and its principal. If separate filings are intended by an individual trustee as well as the trust or by a limited liability company as well as its principal, separate petitions are required by each entity.

(b) *Necessity of Retaining Counsel.* The clerk shall not accept for filing a voluntary petition to commence a case if the debtor is a trust or limited liability company unless the debtor is represented by an attorney who has signed the petition. The clerk shall not accept for filing an involuntary petition to commence a case if a petitioner is a trust or limited liability company unless the petitioner is represented by an attorney who has signed the petition.

Cross-References:

- *LR 83.6 (Appearances)*
- *LBR 1007-1 (Lists, Schedules and Statements)*
- *LBR 1004-1 (Petition — Partnership)*
- *LBR 1004-2 (Petition — Corporation)*
- *AO 5005-4(d) (Electronic Filing, Signatures and Declarations Regarding Electronic Filing)*

FEES — INSTALLMENT PAYMENTS

No debtor seeking approval for payment of the bankruptcy filing fee in installments shall pay less than one-fourth (1/4) of the total fee required with the filing of the petition. The balance of the total fee shall be paid in no more than three (3) equal amounts payable every thirty (30) days thereafter until paid in full.

Cross-References:

- *LBR 5080-1 (Fees — General)*
- *LBR 5081-1 (Fees — Form of Payment)*

LISTS, SCHEDULES AND STATEMENTS

(a) *Form.* All schedules and statements shall conform substantially to the Official Forms included in the Bankruptcy Rules and shall be completed legibly in all respects. If the appropriate entry is “none,” then that should be indicated. In each of Schedules D, E, F and H, all creditors shall be listed in alphabetical order by name, with complete address including the ZIP code, except that secured creditors on Schedule D may be grouped according to the collateral involved if multiple liens on particular assets are involved. In individual cases, Schedules A through J must be filed. In all other cases, Schedules A, B, and D through H must be filed.

(b) *Filing of Schedules and Statements.* Collate in the following sequence:

- (1) Petition.
- (2) Statement of Financial Affairs.
- (3) Schedules A through J.
- (4) Declaration Concerning Debtor’s Schedules.
- (5) Attorney’s Disclosure Pursuant to Bankruptcy Rule 2016(b).
- (6) (If appropriate) Chapter 7 Individual Debtor’s Statement of Intention.
- (7) Summary of Schedules.
- (8) Statement of Current Monthly Income.
- (9) Notice to Individual Consumer Debtor Under § 342(b) of the Bankruptcy Code.
- (10) Verified Statement re: Matrix.
- (11) Any other documents required by paragraphs (e) through (g) of this rule.

(c) *Certificate of Credit Counseling.* An individual debtor under Chapter 7, 11, 12 or 13, in addition to indicating on the petition that credit counseling has been obtained, shall file a separate certification from an approved credit counseling agency indicating that said credit counseling has been completed.

(d) *Statement of Social Security Number.* An individual debtor shall submit, at the time of filing the voluntary petition, a verified statement that sets out the debtor’s Social Security number. If the petition is filed electronically, then the debtor shall submit a Declaration of Electronic Filing for Petitions, Schedules and Amendments to Schedules in the form of *LBF 5005-4A* within five (5) business days. If the debtor does not have a Social Security number, then a statement so indicating shall be filed.

(e) *Filing Copy of Debtor’s Organization Documents.* Whenever a debtor is organized as a trust or as a limited liability company, the debtor shall file with its bankruptcy schedules a copy of its organizational documents together with all amendments, with a copy served upon any trustee and counsel to any official committee in the case.

(f) *Filing of Leases.* Whenever a lease of nonresidential real property constitutes an interest of a bankruptcy estate, the debtor shall file, along with the statement of executory contracts, a separate statement that such a lease exists, the name and address of the lessor and a copy of the lease instrument, with a copy served upon any trustee

and counsel to any official committee in the case.

(g) *Filing of List of Inventories and Equipment.* Whenever inventory or business equipment is scheduled in a Chapter 7 case, the debtor shall comply with the requirements of *LBR 4002-1(c)* and *(d)*.

(h) *Failure to Timely File Schedules.* If the debtor fails to file all schedules and statements required by Bankruptcy Rule 1007, and no extension of time has been requested or granted, then the Court shall issue an order to show cause why the case should not be dismissed for failure to timely file the required schedules and statements.

(i) *Motions to Extend Time to File Schedules.* The following procedures shall govern the filing of motions to extend the time to file schedules and statements:

- (1) *Timeliness.* A motion for extension of time shall be filed before the expiration of the period originally prescribed by the Bankruptcy Rules or as extended by a previous order. A copy of the motion should be served by the debtor upon the United States Trustee, any trustee and all members of any official committee appointed by the United States Trustee.
- (2) *Content of Motion.* All motions for extension of time shall state:
 - (A) The specific date requested.
 - (B) Whether previous applications for extension of time on the matter have been requested, including the number and length of previous extensions.
 - (C) Whether the opposing party or parties in interest agree or object to the requested extension.
- (3) *Proposed Order.* A proposed order shall accompany the motion.

(j) *Extension Granted for Filing Schedules.* If the debtor is granted an extension of the time for the filing of schedules and statements, and the time for filing occurs after the first date scheduled for the section 341 meeting of creditors, then the debtor shall appear at said meeting on the scheduled date and obtain the agreement of the United States Trustee or the case trustee for a continued meeting to a date after the required papers are to be filed.

Cross-References:

- *LBR 1002-1 (Petition — General)*
- *LBR 1007-2 (Mailing — List or Matrix)*
- *LBR 4002-1 (Debtor — Duties)*
- *LBR 5005-4 (Electronic Filing)*
- *AO 5005-4 (Electronic Filing)*
- *LBF 5005-4A (Declaration of Electronic Filing of Petitions, Schedules and Amendments to Schedules)*

MAILING — LIST OR MATRIX

(a) *List and Verification.* The debtor or the debtor's attorney shall prepare and submit, at the time the petition is filed, a master address list in the matrix form specified herein which contains the names, addresses and ZIP codes of all creditors and parties in interest in alphabetical order, accompanied by a statement that the list has been verified by the debtor and is complete upon submission.

(b) *Format.* The creditor matrix shall be formatted as follows:

- (1) Lists must be left justified and typed in a single column with no stray marks, page numbers or debtor names.
- (2) Use legible font.
- (3) Lists must be no closer than one inch from any edge of the paper.
- (4) Each name/address must consist of no more than five (5) total lines, with at least one blank line between each of the name/address blocks.
- (5) Each line must be no more than forty-five (45) characters in length.
- (6) Do not include the following parties on the matrix, as they will be retrieved automatically by the computer for noticing: debtor, joint debtor, debtor's attorney and United States Trustee.
- (7) Do not include account numbers on the matrix.
- (8) Name and address lines should contain upper and lower case letters.
- (8) Attention lines must be on line two of the address.
- (10) ZIP codes should appear normally at the end of the last line.

An example of the approved creditor matrix format is set forth below:

ABC Corporation
ATTN: Comptroller
1234 Main Street
Boston, MA 02109

First City Nat'l Bank
of Beaumont
PO Box 3391
Beaumont, TX 77704

Flex Northwest
1540 NW 46th Street
Seattle, WA 98372

AMENDMENTS TO PETITIONS, LISTS, SCHEDULES AND STATEMENTS

(a) *Generally.* No petition may be amended to add an additional entity as a debtor after the petition has been filed with the clerk.

(b) *Form and Procedure.* An amendment must be filed as a separate document, accompanied by an amendment cover sheet in the form of *LBF 1009-1A*. The amendment must also contain the following:

- (1) A caption including the case name, case number, judge's initials and chapter.
- (2) The document being amended.
- (3) The purpose of the amendment.
- (4) The date of the amendment.
- (5) In the case of an amendment to the schedules of liabilities, each debt newly listed must also state when such debt was incurred.
- (6) In the case of an amendment to Schedule I, Schedule J, the Summary of Schedules, or Form B22 (Statement of Current Monthly Income, commonly referred to as the Means Test Calculation), a complete copy of the schedule, as amended.
- (7) The debtor's signature (if electronically filed, a Declaration Regarding Electronic Filing for Petitions, Schedules and Amendments to Schedules in the form of *LBF 5005-4A*, must be forwarded to the clerk's office within five (5) business days of the filing of the amendment).
- (8) A certificate of service by the debtor or the debtor's attorney stating that notice has been given as required by Bankruptcy Rule 1009 and paragraph (c) of this rule.
- (9) A supplement to the mailing matrix that shall include the names and the addresses of the creditors added, or whose names and addresses have been changed by the amendment, which supplement shall conform with the requirements of *LBR 1007-2*.
- (10) The required filing fee, if any.

(c) *Notice to Affected Parties.* Any amendments to the debtor's schedules must be served on all affected creditors, any trustee, counsel to any creditors' committee and the United States Trustee by the debtor or the debtor's attorney at the same time as they are filed with the clerk, and shall comply further with this rule regarding form and notice. Where the debtor adds creditors to the case by supplementing either the schedules or the list of creditors previously filed, the debtor shall serve upon each newly-listed creditor a copy of the following:

- (1) The amendment.
- (2) The section 341 notice of meeting of creditors or, if the meeting has been held, a notice extending deadlines which provides bar date(s) equivalent to that granted by the original section 341 notice (see *LBF 1009-1B*).
- (3) The order granting discharge, if any.

(4) Any other filed document affecting the rights of said creditor.

Cross-References:

- 28 U.S.C. § 1930 (*Bankruptcy Fees*)
- LBR 1007-2 (*Mailing — List or Matrix*)
- LBR 5005-4 (*Electronic Filing*)
- LBR 5080-1 (*Fees — General*)
- LBR 5081-1 (*Fees — Form of Payment*)
- AO 5005-4 (*Electronic Filing*)
- LBF 1009-1A (*Amendment Cover Sheet*)
- LBF 1009-1B (*Notice to Creditors*)
- LBF 5005-4A (*Declaration Regarding Electronic Filing for Petitions, Schedules and Amendments to Schedules*)

JOINT ADMINISTRATION/CONSOLIDATION

(a) *Related Cases.* Whenever related cases are filed, but not consolidated or jointly administered by order of the Court, any pleading or other document intended to be filed in both cases must be filed in each case as a separate original document. Failure to comply with this rule may result in the pleading being denied without prejudice.

(b) *Jointly Administered or Consolidated Cases.* Whenever, upon motion of a debtor or other party in interest, the Court orders that related cases be jointly administered or consolidated pursuant to Bankruptcy Rule 1015, the clerk shall, subsequent to the entry of such order, file further papers in the chief case with which a related case or cases have been consolidated or in which joint administration has been directed, and only the docket for that case shall be maintained.

(c) *Proofs of Claim.* Notwithstanding the provisions in paragraph (b) above, proofs of claim in jointly administered cases shall be filed in the cases to which they pertain.

Cross-Reference:

- *LBR 9004-2 (Caption — Pleadings/Documents, General)*

DISMISSAL OR SUSPENSION — CASE OR PROCEEDINGS

(a) *By Court.* The Court may at any time issue an order to show cause why a case, adversary proceeding or motion should not be dismissed for lack of prosecution. If good cause is not shown within the time prescribed by the show cause order, then the Court may enter an order of dismissal, with or without prejudice, as the Court may deem appropriate.

(b) *By Motion.* The Court will not act upon any motion by a debtor to dismiss that debtor's case unless the motion filed by the debtor is accompanied by an affidavit in the form of *LBF 1017-2* signed by the debtor and, if the debtor is represented by counsel, by debtor's counsel, stating that all court fees and fees owing to the United States Trustee have been paid in full.

Cross-Reference:

- *LBF 1017-2 (Affidavit of Payment of Fees)*

CONVERSION — PROCEDURE FOLLOWING

(a) Except with regard to motions for relief from the automatic stay, whenever an order or a notice issues converting a case from another chapter to Chapter 7, the effect of such order or notice shall be to cancel any and all scheduled hearings on pending motions, unless otherwise ordered by the Court. A notice and order shall routinely issue by the clerk to this effect upon conversion to Chapter 7. It shall be the burden of the movant in such matters to act affirmatively to reschedule such hearings, if appropriate, in the Chapter 7 case at a time subsequent to such time as the interim trustee in Chapter 7 has had an opportunity to examine the debtor at a meeting pursuant to section 341 of the Bankruptcy Code. If the motion is not so rescheduled by the movant or the plaintiff within thirty (30) days after conversion, then it will be deemed denied without prejudice without further action of the Court.

(b) In the event a motion for relief from the automatic stay is pending as of the time an order or notice issues converting a case from another chapter to Chapter 7, the motion for relief from stay shall be heard at the date and time scheduled by the Court prior to conversion.

(c) In the event that the debtor files a notice of unpaid claims pursuant to Bankruptcy Rule 1019, the trustee may request that the Court set a deadline for the filing of administrative claims, notice of said deadline to be provided to identified claim holders by the trustee, unless otherwise ordered by the Court.

CITATION FORMAT FOR OPINIONS ISSUED BY THIS COURT

(a) *Reported Opinions.* Opinions that are reported in the *Bankruptcy Reporter*, *Bankruptcy Court Decisions* or other reporter shall be cited using the citation format for such reporter suggested in *The Bluebook*, e.g., In re Grant, 242 B.R. 800, 801 (Bankr. D.N.H. 2000).

(b) *Unreported Opinions.* Unreported opinions are opinions that have not been released for publication in printed reports. An opinion is issued in unreported form where, in the view of the judge issuing the opinion, the opinion does not articulate a new rule of law, modify an established rule, apply an established rule to novel facts, or otherwise serve as a significant guide to future parties and litigants. While unreported opinions may be cited by parties and litigants in unrelated cases in the form described in paragraphs (c) or (d), their precedential value may be limited.

(c) *Unreported Opinions Published on the Court's Web Site and Issued After January 1, 1999.* Unreported opinions that are issued after January 1, 1999, shall be cited using the four-digit year in which the opinion is issued, the letters "BNH," the three-digit opinion number located on the top of the opinion and, where reference is made to specific material within the opinion, the page number, e.g., In re Hellesen, 1999 BNH 002, 3.

(d) *Unreported Opinions Not Published on the Court's Web Site.* Unreported opinions that are not published on the Court's web site shall be cited using the citation form for unreported decisions suggested in *The Bluebook*, e.g., Galloway v. True (In re True), Bk. No. 96-11447-MWV, Adv. No. 96-1093-MWV, slip. op. at 3 (Bankr. D.N.H. Aug. 22, 1997).

JURISDICTION

All initiating motions and complaints shall include, at the outset, a statement of the jurisdiction of the Bankruptcy Court pursuant to the applicable provisions of 28 U.S.C. §§ 157 and 1334. The jurisdictional statement shall include an allegation as to whether the matter is a “core” or “noncore” matter pursuant to 28 U.S.C. § 157.

Cross-Reference:

- *LBR 9004-1 (Pleadings and Documents — Requirements of Form)*

IDENTIFICATION OF PARENT COMPANIES AND PUBLIC COMPANIES

(a) *Purpose.* The purpose of this rule is to assist the judges in making a determination of whether they have any relationship with or interest in any company related to a debtor or party in interest that would disqualify the judge from participating in any proceeding in this Court.

(b) *Definition of Company.* For the purposes of this rule, “company” means any entity as defined in 11 U.S.C. § 101 which is not an individual, governmental unit or United States Trustee, and includes, but is not limited to, corporations, partnerships, limited liability companies, limited liability partnerships, estates and trusts.

(c) *Debtors.* Consistent with any requirement under Bankruptcy Rule 1007(a)(1), any company that is a debtor in this Court shall file a statement identifying all of its parent companies and listing any publicly held company that owns ten percent (10%) or more of the interests in the debtor or the debtor’s equity securities. The debtor shall file the statement with its petition at the commencement of the case and shall supplement such statement within a reasonable time following any change of the information.

(d) *Adversary Proceedings.* Consistent with any requirement under Bankruptcy Rule 7007.1, any company, other than a debtor, that is a party to an adversary proceeding in this Court shall file a statement identifying all of its parent companies and listing any publicly held company that owns 10% or more of the interests in the party or the party’s equity securities. A party shall file the statement with its initial pleading filed in the Court and shall supplement such statement within a reasonable time following any change of the information.

(e) *Contested Matters.* Any company, other than a debtor, that is involved in a contested matter in this Court, either as a movant, an objecting party or a respondent, shall file a statement identifying all of its parent companies and listing any publicly held company that owns 10% or more of the interests in the company or the company’s equity securities. The movant or objecting party shall file the statement with its initial pleading filed in the Court and shall supplement such statement within a reasonable time following any change of the information. The respondent shall file the statement with its responsive pleading filed in the Court and shall supplement such statement within a reasonable time following any change of the information. Contested matters, for purposes of this rule, include but are not limited to: (1) applications to employ professionals; (2) objections to exemptions; (3) objections to use of cash collateral; (4) objections to proposed sale, use or lease of property; (5) motions for relief; (6) objections to motions to avoid liens; (7) objections to claims; (8) objections to disclosure statements; (9) objections to confirmation; and (10) applications for compensation.

(f) *Exception.* Notwithstanding the provisions of sections (c) through (e) of this rule, a company shall file only one statement in each proceeding in this Court (i.e., bankruptcy case, adversary proceeding and contested matter) unless there is any change of the information, in which case the company shall supplement its statement within a reasonable time following such change.

Part II

**Officers and Administration; Notices;
Meetings; Examinations; Elections;
Attorneys and Accountants**

NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES

(a) *Generally.* If notice is required by the Bankruptcy Rules to be served on all creditors and parties in interest, the clerk, upon advance request, shall provide the moving party with a copy of the mailing matrix for the case. The matrix is also available via the CM/ECF system.

(b) *Parties to Receive Notice.* In all cases, notice shall be sent pursuant to *LBR 5075-1* and, in addition, to any other parties as may be required by the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules and the Administrative Orders of this Court.

(c) *Method of Service.* Service of all pleadings and orders shall be by first class mail or electronic means unless otherwise provided by the Bankruptcy Rules, the Local Bankruptcy Rules or ordered by the Court.

Cross-References:

- *LBR 1007-2 (Mailing — List or Matrix)*
- *LBR 5075-1 (Designation of Parties to Provide Notice)*
- *LBR 5003-1 (Register of Mailing Addresses)*

NOTICE TO UNITED STATES OR FEDERAL AGENCY

(a) *Generally.* Bankruptcy Rule 2002 governs notice to the United States of America or a subdivision thereof.

(b) *Adversary Proceedings and Contested Matters.* Bankruptcy Rule 7004 governs service of process upon the United States of America in adversary proceedings and contested matters.

Cross-References:

- *LBR 2016-1 (Compensation of Professional Persons)*
- *LBR 5003-1 (Register of Mailing Addresses)*

EMPLOYMENT OF PROFESSIONALS

(a) *Ex Parte Applications.* On an *ex parte* basis, the Court will normally only authorize retention of a professional person on a general retainer, with a reasonable fee to be fixed by the Court at the conclusion of the services and/or at the final hearing on fees. The actual fee is then fixed after notice and hearing in accordance with the provisions of the Bankruptcy Code.

(b) *Alternative Fee Provisions.* The Court has discretion to authorize retention with alternative provisions for fees, subject to the proviso in section 328 of the Bankruptcy Code where such terms and conditions subsequently prove to be “improvident” as therein defined. If such alternative provisions are requested, a hearing shall be held to establish the need for the alternative method of retention.

Cross-References:

- *LBR 2016-1 (Compensation of Professional Persons)*
- *AO 2016-1 (Fee and Expense Guidelines)*

CHAPTER 13 — REPRESENTATION BY ATTORNEYS

Subject to the provisions of *LBR 2091-1*, an attorney who represents a debtor at the time a petition under Chapter 13 is filed or when a case under another chapter of the Bankruptcy Code is converted to Chapter 13 has a continuing duty to represent the debtor in all matters until the occurrence of the earliest of:

- (a) Dismissal of the case.
- (b) Entry of an order allowing the attorney to withdraw from further representation of the debtor.
- (c) The order allowing claims is final.
- (d) Closing of the case.

Cross-References:

- *LBR 2016-1 (Compensation of Professional Persons)*
- *LBR 2091-1 (Attorneys — Withdrawals)*

CHAPTER 13 — TRUSTEE’S FINAL ACCOUNT

(a) *Dismissed or Converted Cases.* When a case has been dismissed or converted to another chapter, the trustee shall follow United States Trustee guidelines by filing an Interim Report and Account with the Court and sending a copy to the debtor or debtor’s attorney, the United States Trustee and all creditors indicating the amounts paid and the percentage paid within each category of claimants. A Final Report and Account shall be filed with the Court after all disbursement checks have cleared.

(b) *Completed Cases.* When the trustee determines that the plan has been completed, the trustee shall follow United States Trustee guidelines by filing an Interim Report and Account with the Court and sending a copy to the debtor or debtor’s attorney, the United States Trustee and all creditors indicating the amounts paid and the percentage paid within each category of claimants. After review, the Court shall issue a discharge of the debtor. A Final Report and Account shall be filed with the Court after all disbursement checks have cleared and the case is ready to be closed.

COMPENSATION OF PROFESSIONAL PERSONS

(a) *Scope of Rule.* This rule shall apply to all applications for compensation filed by any professional person including, but not necessarily limited to, attorneys, accountants, appraisers, financial consultants and brokers.

- (1) Exceptions to this rule's requirements concerning submission of detailed statements, timekeeping, billing summaries or other matters may be sought when the application for retention is filed. For example, a professional whose compensation is subject to application and review may indicate any inability to comply with the requirements of this rule or request an exception based upon the terms of employment or common practice (e.g., percent commission or compensation measured other than by time) and may, therefore, seek an exception to one or more provisions of this rule. Such exceptions will be considered prospectively only and will be granted only to the extent not inconsistent with the policies underlying the monitoring and review of professional compensation.
- (2) If the total fee for the debtor's attorney in a case under Chapter 13 is less than or equal to the guidelines prescribed in *AO 2016-1*, the statement required by *LBR 2016-1(b)* is sufficient and it is unnecessary for such attorney to file any itemized application for compensation unless ordered to do so by the Court.

(b) *Rule 2016 Statement and Supplement.* At the same time the bankruptcy petition is filed, the debtor's attorney shall file a statement disclosing compensation paid or promised to the debtor's attorney as required by Bankruptcy Rule 2016. The amount of any retainer received by the debtor's attorney shall be included in the attorney compensation statement, and the statement shall provide the scope of services to be rendered. If, subsequent to the time the Rule 2016 statement is filed, the debtor's attorney has provided or agreed to provide additional services to the debtor, the debtor's attorney shall file a supplement to the Rule 2016 statement in the form of *LBF 2016-1C* disclosing such additional services and compensation.

(c) *Retainers.* All retainers, whether received from the debtor or from any other source for the benefit of the debtor or for the benefit of an appointed trustee or committee, shall be held in a segregated account or attorney's client trust account if the retainer is received by a professional person whose retention is subject to approval by the Court on account of services rendered or to be rendered. Retainers held pursuant to this rule are to be held for the benefit of the bankruptcy estate, as opposed to the benefit of any other person, entity or program, until such time as an order for their disposition issues. None of the retainer held pursuant to this rule shall be withdrawn except upon an order by the Court.

(d) *Preparation of Application.* All professional persons whose compensation is subject to approval by the Court must file an application for compensation unless excepted from such requirement by the provisions of this rule or by an order of the Court.

- (1) It is the responsibility of a trustee or debtor in possession to prepare and file the application for compensation and expenses of a non-attorney professional employed by the trustee or the debtor in possession after receiving and reviewing the statement or invoice of the professional involved.
- (2) Any attorney who proposes to charge a debtor more than the amount specified in *AO 2016-1* shall file an application for compensation in accordance with this rule.

(e) *Application Form.* All applications for allowances to attorneys, accountants and other professionals retained by order of the Court for reasonable services rendered or reimbursement of necessary expenses incurred shall:

- (1) Include Annex 1 — Request for Final Award (see *LBF 2016-1A*) or Annex 2 — Request for Interim Allowance (see *LBF 2016-1B*) giving a recap of pertinent data.
- (2) In addition to the requirements set forth in the Bankruptcy Code and Bankruptcy Rule 2016(a), the application proper shall contain the following other information:
 - (A) The date of the order approving employment or appointment.
 - (B) In concise form, a general narrative statement of the nature of the services provided, including the results obtained, the size of the estate, total amount of compensation sought and any other matters which will assist the Court in determining the reasonable value of such services.
 - (C) A time sheet based upon records prepared contemporaneously with the services rendered setting forth:
 - (i) The dates the services were rendered.
 - (ii) A description of services in sufficient detail to enable the Court to find that such services were actual and necessary.
 - (iii) The total billable hours spent rendering such services and the percentage of the total billable hours expended in rendering such services broken down between partners and associates.
 - (iv) The identity of the person or persons rendering such services.
 - (v) The billing rate for each of said persons providing services and a total of the amount of time spent by each person.
 - (vi) The total compensation sought by each person providing the services.
 - (vii) Any maximum compensation fixed in the order of appointment.
 - (D) In a Chapter 11 case, the debtor in possession (or any Chapter 11 trustee) shall prepare, file and serve a form of notice summarizing all pending applications for compensation to be used in giving notice of any hearing on fee and expense requests before the same may be heard and acted upon. The notice shall be a single notice covering all pending fee applications and shall include a cumulative total of all interim compensation allowances and expense reimbursements in the case prior to the pending applications.

(f) *Expenses.*

- (1) Every application for professional compensation shall set forth with specificity all disbursements for which reimbursement is sought.
- (2) Applications may seek only reimbursement for actual, necessary expenses.
- (3) Reimbursement of expenses is not intended to provide a “profit” to the applicant. Where the professional is seeking compensation based upon the customary compensation charged by comparably skilled practitioners in cases other than cases under the Bankruptcy Code,

reimbursement of expenses is not intended to cover overhead expenses normally included within the amount of such compensation.

- (4) Every applicant for compensation must be prepared to demonstrate that all expenses for which reimbursement is sought are actual and necessary. However, absent an objection by a party in interest or unless ordered to do so by the Court, any applicant may seek reimbursement of expenses up to the amounts specified in the guidelines adopted by the Court in *AO 2016-1* without demonstrating the actual unit costs of such expenses.

Cross-References:

- *LBR 1007-1 (Lists, Schedules and Statements)*
- *LBR 2014-1 (Employment of Professionals)*
- *AO 2016-1 (Fee and Expense Guidelines)*
- *LBF 2016-1A (Annex 1 — Request for Final Award)*
- *LBF 2016-1B (Annex 2 — Request for Interim Award)*
- *LBF 2016-1C (Supplement to Bankruptcy Rule 2016(b) Statement)*

ESTATE ADMINISTRATION

Without application or notice to the Court, a Chapter 7 trustee is authorized to pay routine expenses, other than the fees of professionals employed under section 327 of the Bankruptcy Code, arising out of administration of a Chapter 7 estate that do not exceed in the aggregate the sum of \$1,000.00. All disbursements made in payment of such routine administrative expenses shall be subject to review by the Court at the conclusion of the case and shall be itemized and described in the final report and accounting filed by the trustee.

CHAPTER 13 — PROOF OF INSURANCE

Whenever improved real estate is scheduled in a Chapter 13 case, the debtor shall provide, at the section 341 meeting, proof of insurance and such other insurance information as the Chapter 13 trustee may require. Whenever a debtor in a Chapter 13 case operates a business, the debtor shall provide, at the section 341 meeting, proof of appropriate business insurance.

CHAPTER 13 — REQUIREMENTS FOR BUSINESS DEBTOR

If a Chapter 13 debtor is a debtor engaged in business, the debtor shall also file:

(a) Statement of Financial Affairs for Debtor Engaged in Business.

(b) A monthly operating statement substantially in the form of *LBF 2083-3*. Such operating statement shall be provided to the Chapter 13 trustee on a monthly basis by the debtor engaged in business until the time the trustee files a final motion to allow claims. Should the Chapter 13 trustee require further reporting prior to the filing of the final motion to allow claims, the trustee shall submit the request in writing. The Chapter 13 trustee shall file a motion to require monthly reports after the order is entered allowing claims when the trustee believes it is appropriate to do so. The Chapter 13 trustee shall insert language in the proposed order allowing claims, and this matter shall be taken up at the claims hearing.

Cross-Reference:

- *LBF 2083-3 (Monthly Operating Statement)*

ATTORNEYS — ADMISSION TO PRACTICE

(a) *Admission of Member of the Bar of the District Court.* Any attorney admitted to the bar of the United States District Court for the District of New Hampshire is admitted to practice before the United States Bankruptcy Court for the District of New Hampshire. The provisions of LR 83.2(a) shall govern the admittance of an attorney appearing for the United States, for an agency of the United States or for an officer of the United States in an official capacity.

(b) *Admission Pro Hac Vice.* Any attorney not admitted to the bar of the United States District Court for the District of New Hampshire may appear and practice before the United States Bankruptcy Court in a particular action at the Court's discretion and on motion by a member of the bar of the United States District Court for the District of New Hampshire who is actively associated with him or her in a particular action. All such motions shall have attached a supporting affidavit meeting the requirements of LR 83.2(b)(1) and containing a statement that:

- (1) The attorney is familiar with the requirements of *LBR 2090-2* regarding disciplinary jurisdiction and rules.
- (2) The attorney is familiar with or is associated with local counsel who is familiar with the substantive and the procedural requirements of the local rules and administrative orders of the Bankruptcy Court.
- (3) The attorney is familiar with the requirements of *LBR 5005-4* and *AO 5005-4* regarding electronic filing and that the attorney has been issued a log-in and password by the Court or will secure a log-in and password from the Court no later than ten (10) days after admission *pro hac vice*.

However, in accordance with section 304(g) of the Bankruptcy Reform Act of 1994, child support creditors or their representatives shall be permitted to appear and intervene without meeting the requirements of this rule if said creditors or representatives file a form with the Court that contains information detailing the child support debt, its status and other characteristics.

Cross-References:

- *LR 83.2 (Practice by Persons Not Members of the Bar of this Court)*
- *LBR 2090-2 (Disciplinary Rules and Procedures)*
- *LBR 9010-1 (Attorneys — Notice of Appearance)*

DISCIPLINARY RULES AND PROCEDURES

The following disciplinary rules and procedures shall apply in all matters before this Court.

(a) *Conferred Disciplinary Jurisdiction.* Any attorney admitted or permitted to practice before this Court shall be deemed to have conferred disciplinary jurisdiction upon this Court for any alleged attorney misconduct arising during the course of a case pending before this Court in which that attorney has participated in any way.

(b) *Promulgation of Disciplinary Rules.* The Court, in furtherance of its inherent authority and responsibility to supervise the conduct of attorneys who are admitted or permitted to practice before it, and the authority granted by the district court under LR 77.4(b), promulgates the Disciplinary Rules as outlined below.

(c) *Disciplinary Rules.*

(1) *DR-1 Standards for Professional Conduct.* The Standards for Professional Conduct adopted by this Court are the Rules of Professional Conduct as adopted by the New Hampshire Supreme Court, as the same may from time to time be amended by that Court, and any standards of conduct set forth in these rules. Attorneys who are admitted or permitted to practice before this Court shall comply with the Standards for Professional Conduct, and the Court expects attorneys to be thoroughly familiar with such standards before appearing in any matter.

(2) *DR-2 Attorneys Convicted of Crimes.*

(A) Upon the filing with this Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been convicted in any court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States of a serious crime as hereinafter defined, the Court shall enter an order immediately suspending that attorney in all pending cases, whether the conviction resulted from a plea of guilty or *nolo contendere*, or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney as provided in paragraph (9), [DR-9], of these rules. Upon good cause shown, the Court may set aside such order when it appears in the interest of justice to do so.

(B) The term “serious crime” shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file or filing false income tax returns, deceit, bribery, extortion, misappropriation, theft or an attempt to or a conspiracy or solicitation of another to commit a “serious crime.”

(C) A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

(D) Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the Court shall, in addition to suspending that attorney in accordance

with the provisions of this rule, refer the matter to the district court (i) for the institution of a disciplinary proceeding before one or more judges of the Court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded; or (ii) a recommendation as to whether the imposition of final discipline should be stayed pending the outcome of a disciplinary proceeding in another court and pending the issuance of an order to show cause pursuant to paragraph (3)(B)(2), [DR-3(b)(2)].

- (E) Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a “serious crime,” the Court may refer the matter to the district court for whatever action it may deem warranted, including the institution of a disciplinary proceeding provided, however, that the Court may in its discretion make no reference with respect to convictions for minor offenses.
- (F) An attorney suspended under the provisions of this rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the Court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

(3) *DR-3 Discipline Imposed by Other Courts.*

- (A) Any attorney admitted to practice before this Court shall, upon being subjected to public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, promptly inform the clerk of this Court and the clerk of the district court of such action.
- (B) Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that any attorney admitted to practice before this Court has been disciplined by another court, this Court shall forward a copy of the judgment or order to the clerk of the district court and may forthwith issue a notice directed to the attorney containing:
 - (i) A copy of the judgment or order from the other court.
 - (ii) An order to show cause directing that the attorney inform this Court within thirty (30) days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in paragraph (D) hereof that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor.
- (C) In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this Court shall be deferred until such stay expires.
- (D) Upon the expiration of thirty (30) days from the service of the notice issued pursuant to the provisions of paragraph (3)(B)(ii), [DR-3(B)(ii)], above, this Court may impose the identical discipline, or any lesser discipline, unless the respondent-attorney demonstrates, or this Court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated any one of the

following clearly appears:

- (i) That the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process.
- (ii) That there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject.
- (iii) That the imposition of the same discipline by this Court would result in grave injustice.
- (iv) That the misconduct established is deemed by this Court to warrant substantially different discipline.

Where this Court determines that any of said elements exist, it shall enter such other order as it deems appropriate.

- (E) In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this Court.
- (F) This Court may at any stage appoint special counsel to prosecute the disciplinary proceedings.

(4) *DR-4 Disbarment on Consent or Resignation in Other Courts.*

- (A) Any attorney admitted to practice before this Court who shall be disbarred on consent or resign from the bar of any other court of the United States or the District of Columbia or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, shall, upon the filing with this Court of a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this Court.
- (B) Any attorney admitted to practice before this Court shall, upon being disbarred on consent or resigning from the bar of any other court of the United States or the District of Columbia or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the clerk of this Court and the clerk of the district court of such disbarment on consent or resignation.

(5) *DR-5 Misconduct.*

- (A) For misconduct defined in these rules, and for good cause shown, and after notice and opportunity to be heard, any lawyer admitted or permitted to practice before this Court may be suspended from practice before this Court in pending cases or subjected to such other public or private disciplinary actions as the circumstances may warrant.
- (B) Acts or omissions by a lawyer admitted or permitted to practice before this Court, individually or in concert with any other person or persons in a case before this Court, that violate the Standards for Professional Conduct adopted by this Court

shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship.

(6) *DR-6 Disciplinary Proceedings.*

- (A) When misconduct or allegations of misconduct which, if substantiated, would warrant discipline of an attorney admitted or permitted to practice before this Court shall come to the attention of this Court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these rules, the judge may follow either or both of the following procedures:
 - (i) Refer the matter to the district court and/or to any appropriate disciplinary agency with jurisdiction over said attorney with a request that the agency report its actions to the Court, provided, however, that in addressing any misconduct matter, the Court may consider such agency's actions but shall not be bound thereby.
 - (ii) Appoint one or more members of the bar of this Court to act as special counsel to investigate the matter, to prosecute the matter in a formal disciplinary proceeding under these rules, to make such other recommendation as may be appropriate or to perform any other functions required by the Court in its order of appointment.
- (B) Should special counsel, after investigation and review, conclude that a formal disciplinary proceeding should not be initiated against the respondent-attorney because sufficient evidence is not present or because there is another proceeding pending against the respondent-attorney, the disposition of which in the judgment of counsel should be awaited before further action by this Court is considered, or for any other valid reason, counsel shall file with the Court a recommendation for disposition of the matter, setting forth the reasons therefor.
- (C) To initiate formal disciplinary proceedings, special counsel shall, upon a showing of probable cause, obtain leave of this Court to institute a disciplinary proceeding by filing a complaint against the respondent-attorney setting forth the allegations of misconduct. If leave of the Court is obtained, the complaint and summons shall be promptly served as provided in paragraph (9), [DR-9].
- (D) The respondent-attorney shall file an answer to the complaint within thirty (30) days after service. If any issue of fact is raised in the answer or if the respondent-attorney wishes to be heard in mitigation, this Court shall set the matter for prompt hearing before one or more judges of this Court provided, however, that if the disciplinary proceeding is predicated upon the complaint of a judge of this Court, the hearing shall be conducted by another judge of this Court or, if no judge is eligible to serve, the hearing shall be before a judge of the district court appointed by the chief judge of the district court.

(7) *DR-7 Suspension on Consent While Under Disciplinary Investigation or Prosecution.*

- (A) Any attorney admitted to practice before this Court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct, may consent to suspension but only by delivering to this Court an affidavit stating that the attorney desires to consent to suspension and that:

- (i) The attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting.
 - (ii) The attorney is aware that there is a presently pending investigation or proceeding involving allegations that there exist grounds for the attorney's discipline, the nature of which the attorney shall specifically set forth.
 - (iii) The attorney acknowledges that the material facts so alleged are true.
 - (iv) The attorney so consents because the attorney knows that if charges were predicated upon the matters under investigation or if the proceedings were prosecuted, the attorney could not successfully defend himself.
- (B) Upon receipt of the required affidavit, this Court shall enter an order suspending the attorney.
- (C) The order suspending the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

(8) *DR-8 Reinstatement.*

- (A) *After Suspension.* An attorney suspended for three (3) months or less shall be automatically reinstated at the end of the period of suspension upon the filing with the Court of an affidavit of compliance with the provisions of the order of suspension. An attorney suspended for more than three (3) months may not resume practice until reinstated by separate order of this Court.
- (B) *Hearing on Application.* Petitions for reinstatement by a suspended attorney under this rule shall be filed with the chief judge of the Court. Upon receipt of the petition, the chief judge shall refer the petition to counsel and assign the matter for hearing before a judge of this Court provided, however, that if the disciplinary proceeding was predicated upon the complaint of a judge of this Court, the hearing shall be conducted before another judge of this Court or, if there is no judge of this Court eligible to serve, before a judge of the district court appointed by the chief judge of the district court. Within thirty (30) days after referral, the judge assigned to the matter shall schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that petitioner has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that petitioner's resumption of the practice of law in this Court will not be detrimental to the integrity and standing of the bar or to the administrations of justice or subversive of the public interest.
- (C) *Duty of Special Counsel.* In all proceedings upon a petition for reinstatement, cross-examination of the witness of the respondent-attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by counsel.
- (D) *Deposit for Costs of Proceeding.* Petitions for reinstatement under this rule shall be accompanied by an advance-cost deposit in an amount to be set from time to time by the Court to cover anticipated costs of the reinstatement proceeding.

- (E) *Conditions of Reinstatement.* If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate him or her, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension. Provided further, that if the petitioner has been suspended for five (5) years or more, reinstatement may be conditioned, in the discretion of the judge before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdictions of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension.
- (F) *Successive Petitions.* No petition for reinstatement under this rule shall be filed within one (1) year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.
- (9) *DR-9 Service of Complaint, Papers and Other Notices.* Upon the filing of a complaint instituting a disciplinary proceeding, the clerk shall forthwith issue a summons and deliver the summons and a copy of the complaint in the matter provided in Bankruptcy Rule 7004. The summons shall direct the respondent-attorney to serve an answer within thirty (30) days after service. An order of suspension shall be served in the same manner as a summons and complaint instituting a disciplinary proceeding. Service of any other papers or notices required by these rules shall be deemed to have been made if such paper or notice is addressed to the respondent-attorney at the attorney's last known address or to counsel for the respondent's attorney at the address indicated in the most recent pleading or other document filed by them in the course of any proceeding.
- (10) *DR-10 Duties of the Clerk.*
- (A) Upon being informed that an attorney admitted to practice before this Court has been convicted of any crime, the clerk of this Court shall determine whether the clerk of court in which such conviction occurred has forwarded a certificate of such conviction to this Court. If a certificate has not been so forwarded, the clerk of this Court shall promptly obtain a certificate and file it with this Court and with the clerk of the district court.
- (B) Upon being informed that an attorney admitted to practice before this Court has been subjected to discipline by another court, the clerk of this Court shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this Court, and, if not, the clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this Court and with the clerk of the district court.
- (C) Whenever it appears that any person convicted of any crime or suspended or censured on consent by this Court is admitted to practice law in any other jurisdiction or before any other court, the clerk of this Court shall, within ten (10) days of that conviction, suspension or censure, transmit to the other court a certificate of the conviction or a certified exemplified copy of the judgment or order of suspension or censure on consent, as well as the last known office and residence of the defendant or respondent.
- (D) The clerk of this Court shall likewise promptly notify the National Lawyer

Regulatory Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney admitted to practice before this Court.

(11) *DR-11 Public Access and Confidentiality.*

(A) *Publicly Available Records.* All filings, orders and proceedings involving allegations of misconduct by an attorney shall be public, except:

(i) When the Court, on its own initiative or in response to a motion for protective order, orders that such matters shall not be made public. While a motion for protective order is pending, the motion and any objection to the motion will be filed under seal.

(ii) Any filing, proceeding or order issued pursuant to paragraph (6), [DR-6] prior to the initiation of formal disciplinary proceedings under paragraph (6)(C), [DR-6(C)].

(B) *Respondent's Request.* The respondent-attorney may request that the Court make any matter public that would not otherwise be public under this rule.

(12) *DR-12 Jurisdiction.* Nothing contained in these rules shall be construed to deny to this Court such powers as are necessary for the Court to maintain control over proceedings conducted before it.

ATTORNEYS — WITHDRAWALS

(a) *Generally.* An attorney may withdraw from a case by serving notice of withdrawal on the client and on all other parties and by filing the notice with the clerk provided that: (1) there are no motions affecting the attorney's client pending before the Court, (2) a pretrial scheduling order has not been entered in an adversary pleading involving the client, and (3) no trial date on any such adversary proceeding has been set. If these conditions are not met, an attorney may only withdraw from a case by leave of Court after the filing of a motion with the clerk. When an attorney withdraws from a case and no other appearance is entered, the clerk shall notify the party by mail of such withdrawal and, unless the party appears *pro se* or through counsel within the time specified in the clerk's notice, the Court will terminate the case by a dismissal or default judgment. As a condition of withdrawal, the debtor's attorney shall notify the clerk, in writing, of the client's last known address.

(b) *Appointed Professionals.* Notwithstanding paragraph (a) of this rule, professionals appointed by court order under section 327 of the Bankruptcy Code may withdraw from representation of an entity as counsel of record only upon order of the Court, after hearing upon due notice.

(c) *Attorney for Debtor.* In addition to the requirements of paragraph (b) of this rule, a debtor's attorney, whose fees are subject to review under section 329 of the Bankruptcy Code, shall include in the motion for withdrawal a statement of the amount of fees received and shall attach time sheets indicating the total hours of legal services provided.

Cross-Reference:

- LBR 2014-2 (Chapter 13 — Representation by Attorneys)

Part III

**Claims and Distribution to Creditors
and
Equity Interest Holders;
Plans**

CLAIMS AND EQUITY SECURITY INTERESTS — GENERAL

(a) *Standard Bar Date.* Upon the filing of a Chapter 11 reorganization petition, the Court will routinely enter an order establishing a claims bar deadline date for the case 120 days after the filing. The deadline date will be included in the notice of the first meeting of creditors issued by the clerk unless debtor's attorney, at the time of the filing of the Chapter 11 petition, indicates a desire for a claims deadline date earlier or later than the 120-day date.

(b) *Non-Standard Bar Date.* In those instances in which a 120-day claims deadline date is not appropriate, debtor's attorney should submit a motion and proposed order providing for a different date at the time that the Chapter 11 petition is filed. The motion should include a brief statement of the reason for the date suggested and should request *ex parte* consideration.

(c) *Claims Agent.* All proofs of claim or interest shall be filed with the clerk, however, the debtor may, at the time of filing the petition or as soon as practicable thereafter, file an application to employ a claims agent who will assist the clerk with this function. If said application is approved by the Court, then all claims in that case will be filed with the claims agent. The Court may, at any time, order the debtor to employ a claims agent.

CHAPTER 13 — PLAN

(a) *Form of Plan.* A Chapter 13 plan shall conform substantially to the form specified in *LBF 3015-1A* with such alterations as may be appropriate to suit the circumstances.

(b) *Service of Plan.* Upon scheduling of a confirmation hearing or the filing of an amended plan, the debtor shall serve a copy of the plan, or a summary thereof, along with the notice of confirmation hearing (substantially in the form of *LBF 3015-1B*) upon the Chapter 13 trustee, all creditors and other parties in interest who do not receive copies by electronic filing. The debtor shall file with the plan or amended plan a certificate of service certifying that a copy of the plan or summary has been served upon the trustee, all creditors and parties in interest.

(c) *Plan Payments.* All arrearage payments on priority and secured claims shall be payable through the plan.

(d) *Caption.* Each plan and any amended plan shall include the date of the plan or the date of the amendment in its caption, e.g., “Amended Plan Dated _____.”

Cross-References:

- *LBF 3015-1A (Chapter 13 Plan)*
- *LBF 3015-1B (Notice of Confirmation Hearing)*

CHAPTER 13 — CONFIRMATION

(a) *Objection Deadline.* Any objection to confirmation of a Chapter 13 plan shall be filed no later than seven (7) days before the first date set for the confirmation hearing, or in the event an amended plan is filed, five (5) days before the confirmation hearing. The objection shall be heard at the confirmation hearing.

(b) *Service of Objection.* The objecting party shall file the original objection to confirmation with the Court and serve copies on the United States Trustee, the Chapter 13 trustee, the debtor, the debtor's attorney and any other party who has requested service of pleadings. The objection shall be accompanied by a certificate of service evidencing compliance with this requirement.

CHAPTER 13 — MODIFICATION OF PLAN AFTER CONFIRMATION

(a) *Postconfirmation Modification.* A debtor who seeks to modify a Chapter 13 plan after confirmation shall do so by filing a motion to modify with a copy of the proposed modified plan attached. The motion shall include a statement of the reason for the modification. In conjunction with the motion to modify, the debtor shall file amended schedules of income and expenses. If such amended schedules of income and expenses result in a net change in disposable income, the debtors may be required by the trustee to appear at a reconvened section 341 meeting to testify to the change.

(b) *Service.* Debtors shall serve a copy of the motion, the modified plan and the statement of reason on the Chapter 13 trustee and on all creditors and parties who have requested notice. Each modified plan shall be titled “Amended Plan Dated _____.”

(c) *Prohibition.* No modifications to a plan may be made by interlineation, supplements or deletions.

(d) *Hearings.* Hearings on motions to modify plans after confirmation shall be scheduled by the Chapter 13 trustee with the appropriate judge’s calendar clerk and noticed consistently with *LBR 3015-1(b)*.

Cross-Reference:

- *LBR 3015-1 (Chapter 13 — Plan)*

CHAPTER 11 — PLAN AND DISCLOSURE STATEMENT

(a) *Caption of Plans and Disclosure Statements.* Every plan of reorganization and disclosure statement filed in a Chapter 11 case and any amended plan and amended disclosure statement shall include the date of the document and the identity of the plan proponent in the caption. The only change to the caption of an amended plan or an amended disclosure statement shall be the date of such amendment.

- (1) Example of original captions: “Debtor’s Plan Dated _____” or “Debtor’s Disclosure Statement Dated _____”
- (2) Example of amended captions: “Debtor’s Amended Plan Dated _____” or “Debtor’s Amended Disclosure Statement Dated _____”

(b) *Red-Lined Copies.* The plan proponent shall submit to the calendar clerk, via e-mail or paper copy—for the personal use of the judge—a separate red-lined copy of any amended plan or amended disclosure statement that underlines all changes to such document.

(c) *Non-Attachment.* The plan shall not be attached as an exhibit to the disclosure statement but shall be filed as a separate document.

DISCLOSURE STATEMENT — APPROVAL

(a) *Filing.* When a disclosure statement is filed with the Court, such disclosure statement must be accompanied by: (1) a separate copy of the plan of reorganization, and (2) a notice setting the hearing date and the deadline for objections to the disclosure statement. Said notice shall be in the form of *LBF 3017-1*. The objection date shall, in all cases, be seven (7) days prior to the hearing scheduled on the disclosure statement.

(b) *Proposed Order.* Within seven (7) days after a hearing approving the disclosure statement, counsel for the plan proponent shall submit a proposed order which sets forth the following:

- (1) The last day for filing ballots.
- (2) The last day for filing objections to the plan.
- (3) The date scheduled for the confirmation hearing, to be obtained from the calendar clerk prior to submitting the order.
- (4) A stock paragraph stating the following: “The debtor shall, within three (3) days after serving the plan and disclosure statement as required by this order, file a certificate of such service with this Court accompanied by an attached copy of the plan and disclosure statement as served. The debtor shall also submit, for the personal use of the judge, an extra copy of the foregoing certificate and attachments.”
- (5) In the case of an individual debtor, a stock paragraph stating the following: “Complaints objecting to the debtor’s discharge under section 727(a) of the Bankruptcy Code shall be filed not later than _____ [the date set for the confirmation hearing].”

Cross-References:

- *LBR 3016-1 (Chapter 11 — Plan and Disclosure Statement)*
- *LBR 7101 (Motion Procedure)*
- *LBR 9073-1 (Hearings)*
- *LBF 3017-1 (Notice of Hearing on Adequacy of Amended Disclosure Statement)*

ACCEPTANCE/REJECTION OF PLANS

When a Chapter 11 plan of reorganization is scheduled for a hearing upon confirmation, the plan proponent, by its attorney of record, shall prepare and present to the Court, at least two (2) business days prior to the hearing, a “Certificate of Vote” in the form of *LBF 3018-2*, appropriately modified as required by circumstances. Unless otherwise ordered by the Court, original voting ballots must be available for inspection by any interested party at the confirmation hearing.

Cross-Reference:

- *LBF 3018-2 (Certificate of Vote)*

CHAPTER 11 — CONFIRMATION

(a) *Retention of Jurisdiction.* Unless specific grounds for additional retained jurisdiction are shown by the plan proponent at the confirmation hearing, the Court will retain jurisdiction following the confirmation of a plan of reorganization only on the following limited basis:

- (1) To hear and determine objections to claims.
- (2) To hear and determine any dispute arising under the plan, its implementation and execution of any necessary documents thereunder and any requests to amend, modify or correct the plan, provided such matters are brought before the Court prior to the point of substantial consummation.
- (3) To grant extensions of any deadlines set forth in the confirming order as may be appropriate.
- (4) To enforce all discharge provisions under the plan.
- (5) To consider and rule upon requests for final compensation.

(b) *Additional Retained Jurisdiction.* If, at the confirmation hearing, the plan proponent is not in a position to request specific retention of additional jurisdiction, then the Court may conditionally reserve in the confirming order the question of additional retained jurisdiction under a procedure by which the plan proponent at a fixed date following entry of the confirmation order (usually sixty (60) days) will file a motion on notice requesting additional retention of jurisdiction for specific matters which will be embodied in a supplementary order to be entered by the Court.

(c) *Proposed Confirmation Order.* Within seven (7) days after the hearing approving a plan of reorganization, counsel for the plan proponent shall submit a proposed confirmation order which includes the following provisions and is substantially in the form of *LBF 3020-1*:

- (1) A paragraph that states that all fees due and all quarterly fees payable to the United States Trustee have been paid as of the confirmation date.
- (2) The last day for filing objections to claims.
- (3) The last day for filing applications for attorneys' fees or other professional fees and expenses.
- (4) The deadline for filing the application for final decree.

(d) *Deadline for Final Decree.* When proposing the deadline for filing the application for final decree, consideration must be given to any matters that need to be resolved by the Court (e.g., fee hearings or objections to claims) and the amount of time needed to hear these matters.

Cross-References:

- 11 U.S.C. § 1101(2) (*Definition of Substantial Consummation*)
- 11 U.S.C. § 1127 (*Modification of Plan*)
- 28 U.S.C. § 1930 (*Bankruptcy Fees*)
- LBF 3020-1 (*Order Confirming Debtor's Plan of Reorganization*)

FINAL REPORT/DECREE (CHAPTER 11)

(a) *Filing of Application for Final Decree.* Preparation and prosecution of the application for a final decree closing a Chapter 11 case shall be a continuing post-confirmation duty of the attorney for the plan proponent and said application shall be prepared and filed not later than 120 days following the date of confirmation of the plan of reorganization, unless specifically stated otherwise in the confirmation order. The case shall be deemed fully administered at the point of substantial consummation of the plan. Compensation allowed such attorney at the time of confirmation includes compensation for time estimated to be required for performance of those duties. Failure to perform said duties in a timely manner may accordingly result in the entry of an order to refund a portion of the fees so allowed.

(b) *Form of Application for Final Decree.* The application for a final decree closing a Chapter 11 case shall contain, at a minimum, the following representations:

- (1) A statement that the plan of reorganization or liquidation confirmed by the Court has been substantially consummated in accordance with the provisions of the plan, the confirming order and any orders of the Court subsequent to confirmation.
- (2) A statement that the debtor, trustee or plan proponent has disbursed to all persons so entitled, all sums allowed by the Court as compensation for services rendered and reimbursement of costs incurred and, in support of said statement, an attached exhibit, designated "Exhibit A," containing the names, addresses and amounts paid to persons to whom allowances were made.
- (3) A statement that the debtor, trustee or plan proponent has commenced the distribution to creditors of the sums due them under the plan and, in support of said statement, an attached exhibit, designated "Exhibit B," containing the names, addresses and amounts paid to each such creditor.
- (4) A statement of all remaining distributions to be made to creditors following entry of the final decree, the date or dates involved and, in support of said statement, an attached exhibit, designated "Exhibit C," containing the names, addresses and amounts to be paid to each such creditor.
- (5) If applicable, a statement that the debtor, trustee or plan proponent has not been able to make distribution to creditors, together with a list of such creditors setting forth their names, addresses and the amounts of any dividends owing. Representation must be made that checks were mailed to said creditors but were returned and that the debtor, trustee or plan proponent has been unable to determine an adequate address despite reasonable attempts to do so.
- (6) A statement of requested additional provisions by way of injunction or otherwise as may be equitable.
- (7) A statement that all fees due to the Court and all quarterly fees due to the United States Trustee have been paid in full.

(c) *Statistical Report.* Along with the application for a final decree, the debtor, trustee or plan proponent shall file a completed Bankruptcy Closing Report (*LBF 3022-1*) as an exhibit to the application for final decree. The figures set forth in this report shall correspond to the figures set forth in the application.

(d) *Proposed Order.* The application for a final decree shall be filed with a proposed form of final decree for the Court's use, which proposed order shall incorporate by reference the representations set forth in the application, to support a determination that the estate has been fully administered and that the case may be closed.

Cross References:

- *Bankruptcy Rule 3022 (Final Decree in Chapter 11 Reorganization Case)*
- *LBF 3022-1 (Statistical Bankruptcy Closing Report for Confirmed Chapter 11 Cases)*

Part IV

The Debtor: Duties and Benefits

AUTOMATIC STAY — RELIEF FROM

(a) *Content Required.* Any motion seeking relief from the automatic stay pursuant to section 362(d) of the Bankruptcy Code involving encumbered real or personal property shall include: (1) the claimed value of the property with respect to which relief is requested, (2) the amount of movant's debt alleged to be secured by such property, (3) evidence of movant's security interest in such property, and (4) the total of all lien claims attaching to such property.

(b) *Relief Limited.* A motion for relief from stay shall include no other requested relief, except that the movant may request adequate protection as alternative relief.

(c) *Denial if Insufficient Data.* Any motion for relief from stay involving encumbered real or personal property that fails to include the items recited in paragraph (a) of this rule may be denied without prejudice by the Court without further consideration.

(d) *Hearing Scheduled.* Movant shall obtain a hearing date prior to filing a motion for relief from stay from the Court's web site at <www.nhb.uscourts.gov>.

(e) *Uncontested Motions.* In the absence of a timely response, the motion shall be treated as uncontested unless the debtor is *pro se*, the section 341 meeting has not yet been held or the case is a Chapter 11 case. Uncontested motions shall be granted and the scheduled hearing shall be canceled without further notice.

(f) *Contested Motions.* Any response filed in opposition to a motion for relief from stay involving encumbered real or personal property shall: (1) identify the interest of the opposing party in the property, (2) state with particularity the grounds for the opposition, and (3) state the claimed value of the property specified in the motion and the amount of equity which exists in the property after deduction of all encumbrances. Additionally, if a motion for relief from stay is contested, the movant shall provide the respondent with a copy of the movant's appraisal of the property at the preliminary hearing, if possible, otherwise, within five (5) days of the final hearing on the movant's motion for relief.

(g) *Settlement Agreements.* Any settlement agreement regarding a motion for relief from stay shall comply with the mandatory notice and service requirements of Bankruptcy Rule 4001(d) and *LBR 9071-1*.

(h) *Discovery.* The Court shall permit the following expedited discovery for both the movant and the debtor:

- (1) *Discovery by Movant.* Movant shall be permitted to serve interrogatories and requests for admissions as set forth in *LBF 4001-1A* upon the debtor, to which debtor shall respond within fifteen (15) days of receipt. Movant shall be limited to the interrogatories and request for admissions set forth in *LBF 4001-1A*. Any additional discovery sought under the expedited time period shall only be allowed by leave of the Court.
- (2) *Discovery by Debtor.* Debtor shall be permitted to serve interrogatories as set forth in *LBF 4001-1B* upon the movant to which movant shall respond within ten (10) days of receipt but not later than three (3) days prior to the hearing. Debtor shall be limited to the interrogatories set forth in *LBF 4001-1B*. Any additional discovery sought under the expedited time period shall only be allowed by leave of the Court.
- (3) *Exhibits.* Movant and debtor shall provide to each other copies of any and all available exhibits to be introduced at the hearing. All exhibits shall be delivered to the opposing party within five (5) days prior to the time of the hearing. If any exhibits are not available five (5) days prior to the hearing, they shall be described in a brief statement as to their form and

content, such statement to be delivered to opposing counsel together with an explanation of the reasons why the exhibits are not available.

Cross-References:

- *LBR 5075-1 (Designation of Parties to Receive Notice)*
- *LBR 9071-1 (Stipulations; Affidavits of Noncompliance)*
- *AO 9012-1 (Compliance with the Servicemembers Civil Relief Act of 2003)*
- *LBF 4001-1A (Discovery by Movant)*
- *LBF 4001-1B (Discovery by Debtor)*
- *LBF 9012-1 (Compliance with the Servicemembers Civil Relief Act of 2003)*

CASH COLLATERAL

(a) *Motions.* All motions for use of cash collateral and any stipulations pertaining to the same, shall be served by the debtor upon all parties claiming an interest in such cash collateral as the debtor proposes to use, the creditors' committee, or if a committee has not been appointed by the time the debtor files and serves such application, then on the twenty (20) largest unsecured creditors and the United States Trustee in accordance with the notice provisions of Bankruptcy Rule 4001(b) and *LBRs 2002-1* and *2002-2*. A hearing on a motion for use of cash collateral will be held only after compliance with the mandatory notice and service requirements of Bankruptcy Rule 4001(b) and *LBRs 2002-1* and *2002-2*.

(b) *Interim Use.* If a motion for use of cash collateral is filed with the Court on or shortly after entry of the order for relief, the Court may grant interim use of cash collateral pending review of the terms of such use by the interested parties. Such interim relief should be granted only to avoid immediate and irreparable harm to the estate pending a final hearing. In the absence of extraordinary circumstances, the Court shall not approve interim cash collateral orders that include any of the provisions identified below in subparagraphs (c)(1) through (c)(9) of this rule. A debtor that seeks an order approving interim use of cash collateral pending a final hearing shall present the following information by affidavit: (1) the names and addresses of all creditors holding a secured interest in the cash collateral and their attorneys, if known; (2) the efforts made to contact such secured creditors or their attorneys and any appointed committee or, if no committee has been appointed, the twenty (20) largest unsecured creditors; and (3) the nature of the emergency requiring an order approving interim use of cash collateral.

(c) *Provisions to be Highlighted and Justified.* All cash collateral motions must: (1) recite whether the proposed form of order or underlying cash collateral stipulation contains any provision of the type indicated below, (2) identify the location of any such provision in the proposed order or cash collateral stipulation, and (3) state the justification for the inclusion of such provision. The provisions to be highlighted and justified are:

- (1) Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the prepetition secured creditors (e.g., clauses that secure prepetition debt by postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law).
- (2) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of the secured creditor's prepetition lien or debt or the waiver of claims against the secured creditor without first giving parties in interest at least seventy-five (75) days from the entry of the order and the creditors' committee, if formed, at least sixty (60) days from the date of its formation to investigate such matters.
- (3) Provisions that seek to waive any rights that the estate may have under section 506(c) of the Bankruptcy Code.
- (4) Provisions that immediately grant to the prepetition secured creditor liens on the debtor's claims and causes of action arising under sections 544, 545, 547, 548 and 549 of the Bankruptcy Code.
- (5) Provisions that deem prepetition secured debt to be postpetition debt or that use postpetition loans from a prepetition secured creditor to pay part or all of that secured creditor's prepetition debt, other than as provided in section 552(b) of the Bankruptcy Code.
- (6) Provisions that provide treatment for the professionals retained by a committee appointed by the United States Trustee different from that provided for the professionals retained by the

debtor with respect to a professional fee carve-out, and provisions that limit the committee counsel's use of the carve-out.

- (7) Provisions that prime any secured lien, without the consent of that lienor.
- (8) A declaration that the order does not impose lender liability on any secured creditor.
- (9) Provisions that grant the lender expedited relief from the automatic stay in section 362 of the Bankruptcy Code or relief from the automatic stay without further order of the Court.

The Court may deem unenforceable any provision not highlighted as required.

(d) *Other Requirements.* All motions for use of cash collateral shall also provide a summary of the essential terms of the proposed use of cash collateral, including the maximum amount available on a final basis, the amount available on an interim basis, any conditions on use, any events of default, use of funds limitations and a description of the adequate protection to be provided to the secured creditors. The cash collateral motion shall also have attached to it a budget covering the time period in which the cash collateral order shall remain in effect. The budget shall state, in as much detail as is reasonably practical, the amount of projected receipts and disbursements during the period covered by the budget.

(e) *Proposed Orders.* Proposed orders granting the use of cash collateral on either an interim or a continuing basis shall contain a limit in amount and shall state a date of termination. If necessary, proposed orders shall also provide space for the Court to fill in a deadline within which a further application for continued use of cash collateral shall be filed and a space for a hearing date on the application for continued use. In no event will an interim order granting use of cash collateral be entered covering a period in excess of thirty (30) days from the commencement of the case.

DEBTOR — DUTIES

(a) *Safekeeping of Books and Records.* Unless a trustee appointed by the United States Trustee takes possession of books and records of a bankruptcy estate, it shall be the duty of the debtor to maintain, preserve and keep in safe storage all of the debtor's books and records during the time the case is pending.

(b) *Turnover of Books and Records.* Upon request, the debtor shall make the debtor's books and records immediately available to the trustee or the trustee's designated agent.

(c) *List of Inventory or Equipment.* When inventory or business equipment is scheduled in a Chapter 7 case, the debtor shall, immediately after the general description thereof or in an annexed document, furnish a detailed list of the inventory and business equipment with a brief explanation of its exact location, the name and address of the custodian thereof, the protection being given such property and the amount of fire and theft insurance, if any. If the list of inventory and business equipment required by this rule cannot feasibly be included with the original schedules, it shall be filed not later than fifteen (15) days after the filing of the bankruptcy petition.

(d) *Preservation of Property.* If a debtor's inventory includes perishables or if property or the business premises otherwise needs immediate attention or protection, the debtor, the debtor's attorney or the Chapter 11 trustee shall notify the clerk, the United States Trustee and the trustee of the need for immediate action. Notification shall be by personal communication or by telephone.

Cross-References:

- *LBR 1007-1 (Lists, Schedules and Statements)*
- *LBR 4002-2 (Address of Debtor)*

ADDRESS OF DEBTOR

The debtor shall notice the Court, any trustee appointed in the case and the debtor's attorney of record, in writing, whenever the debtor's mailing address changes while the case is pending. Failure to comply with this rule may result in dismissal of the case, granting of relief against the debtor based upon notice to the last address of record in the case or such other sanctions as the Court may deem appropriate.

LIEN AVOIDANCE

(a) *Contents Required.* Any motion seeking to avoid a lien pursuant to section 522(f) of the Bankruptcy Code shall be substantially in the form of *LBF 4003-2* and shall include: (1) the claimed value of the property with respect to which relief is requested; (2) the name, address and telephone number of each lienholder (or, if known, the lienholder's counsel) listed in their order of priority; and (3) the amount of each lienholder's lien.

(b) *Appraisals.* At the time the motion is served upon the respondent, the movant shall deliver a copy of the appraisal or other evidence of value upon which the movant intends to rely should the matter become contested. If no appraisal is then available, the same shall be served on respondent no later than five (5) days prior to a contested hearing on the matter. If the respondent objects to the motion and intends to submit an appraisal or other evidence of value at the hearing, the same shall be served on the movant at least five (5) days prior to the hearing.

(c) *Notice.* Prior to filing a motion to avoid lien under section 522(f), the movant shall obtain a hearing date from the Court's web site at <www.nhb.uscourts.gov>. Service must be made by certified mail or by electronic means, as permitted by *LBR 5005-4*, upon the parties against whom relief is requested and their attorneys, if known, along with a copy of said motion.

(d) *Service.* In order to be valid, service must be made at least twenty (20) days prior to the hearing.

Cross-Reference:

- *LBF 4003-2 (Motion to Avoid Lien Pursuant to 11 U.S.C. § 522(f)(2))*

Part V
Court and Clerk

CLERK — OFFICE HOURS

(a) *Office Hours.* The business hours of the office of the clerk are from 8:30 a.m. to 4:30 p.m. daily except Saturday, Sunday and legal holidays, or as otherwise directed. If exigent circumstances require the filing of documents outside these business hours, arrangements for such filing may be made with the clerk in advance.

(b) *Access to Electronic Filing System.* Except during specified system maintenance periods, filing users may file documents at any time through the Court's CM/ECF filing system.

Cross-Reference:

- *LBR 5005-4 (Electronic Filing)*
- *AO 5005-4 (Electronic Filing)*

REGISTER OF MAILING ADDRESSES

The clerk shall maintain a register of mailing addresses of federal and state governmental units and certain other taxing authorities, as required by Bankruptcy Rule 5003(e), on the Court's web site at <www.nhb.uscourts.gov>.

COURT DOCUMENTS

(a) *Review of Court Records.* All records filed with the Court, not under seal, are subject to examination by the public without charge at the clerk's office. All records submitted to (not filed with) the Court may be reviewed only after issuance of a court order, and no such order shall issue except for good cause.

(b) *Access to Electronic Filing System.* Any user with a login/password to the United States Courts PACER system may view documents at any time and will be charged the appropriate fee. To obtain a login/password to the PACER system, contact the PACER Service Center at <www.pacer.psc.uscourts.gov>.

Cross-References:

- *LBR 5005-4 (Electronic Filing)*
- *AO 5005-4 (Electronic Filing)*
- *PACER Service Center web site <www.pacer.psc.uscourts.gov>*

ELECTRONIC FILING

(a) *Acceptance of Electronically Filed Pleadings.* The Court will accept for filing documents submitted, signed or verified by electronic means that comply with procedures established by the Court in *AO 5005-4* for its Case Management/Electronic Case Files (“CM/ECF”) system. This system receives documents filed in electronic form.

(b) *Terms.* The term “Filing User” is used to refer to those who have a court-issued log-in and password to file documents electronically. The term “Notice of Electronic Filing” is used to refer to the notice automatically generated by the CM/ECF system each time a document is filed.

(c) *Scope of Electronic Filing.* All cases and pleadings filed after April 1, 2002, are part of the Court’s CM/ECF system. All attorneys admitted to the bar of this Court (including those admitted *pro hac vice*), United States Trustees and their assistants, private trustees and others as the Court deems appropriate, must register as Filing Users of the Court’s CM/ECF system. All petitions, motions, memoranda of law or other pleadings and documents required to be filed must be filed electronically, except as expressly provided and in circumstances where the Filing User is prevented from filing electronically, e.g., the CM/ECF system is down.

(d) *Public Access.* Any person or organization, other than one registered as a Filing User under paragraph (b) of this rule, may access the CM/ECF system at the Court’s web site <www.nhb.uscourts.gov> by obtaining a PACER log-in and password. Those who have PACER access but who are not Filing Users may retrieve docket sheets and documents, but they may not file documents.

In connection with the filing of any document in the CM/ECF system, any person may apply by motion for an order limiting electronic access to or prohibiting the electronic filing of certain specifically-identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests.

Information posted on the CM/ECF system must not be downloaded for uses inconsistent with the privacy rights of any person.

Cross-References:

- *AO 5005-4 (Electronic Filing)*
- *LBF 5005-4A (Declaration Regarding Electronic Filing for Petitions, Schedules and Amendments to Schedules)*
- *LBF 5005-4B (Declaration Regarding Electronic Filing for Documents Other Than Petitions, Schedules and Amendments to Schedules)*
- *LBF 9072-1 (Form of Order)*

SEALED DOCUMENTS

A motion to file documents under seal may be filed electronically unless prohibited by law.

Cross-Reference:

- *AO 5005-5 (Sealed Documents)*

REOPENING CASES

A motion to reopen a case shall be in writing, on a separate document, and shall have attached a proposed order of the Court authorizing the reopening. The Court will consider whether to act *ex parte* on the reopening or whether a hearing will be required. Any additional relief requested, if the case is reopened, shall be set forth by separate pleadings.

Unless otherwise ordered, any case reopened will be closed 120 days after the order granting the motion to reopen.

WITHDRAWAL OF REFERENCE

As provided in the advisory committee note to Bankruptcy Rule 5011 and LR 77.4, a motion to withdraw the reference shall be filed with the bankruptcy clerk. Movants shall file an original motion, together with a properly completed United States District Court Civil Cover Sheet and the filing fee as prescribed from time to time by 28 U.S.C. § 1930. Motions to withdraw the reference are governed by LR 77.4(d).

Cross-References:

- *LR 77.4 (Bankruptcy)*
- *LBR 5080-1 (Fees — General)*
- *LBR 5081-1 (Fees — Form of Payment)*

CONTINUANCE

(a) *Generally.* A trial, hearing or pretrial conference shall be postponed only upon order of the Court. No motion for an order postponing any trial, hearing or pretrial conference shall be made by counsel without the knowledge and consent of counsel's client. Notice of a motion to postpone any trial, hearing or pretrial conference, together with the reasons therefor, shall be given to all other parties or their counsel within a reasonable time before submission of the motion to the Court, unless such notice is waived by the other parties or their counsel.

(b) *Conflicting Engagement.* A motion or application for a postponement on the grounds of a conflicting engagement must be filed within ten (10) days of the date such conflict became apparent.

(c) *Alternative Hearing Date.* The party requesting a continuance in all cases shall obtain, in advance, by telephonic contact with the calendar clerk of the judge assigned to the case in chief or adversary proceeding in which the motion pertains, a prospective alternate hearing date and shall submit a proposed order for use by the Court, if the continuance is granted, specifying the continued hearing date.

COURTROOM DECORUM

The following procedures are to be followed in all proceedings in open court:

(a) *Objections.* All objections shall be stated with specificity prior to any argument or explanation of same, e.g., leading, hearsay, improper foundation, etc.

(b) *Witness Box.* During the testimony of a witness, attorneys shall not approach the witness box, except to present an exhibit to the witness pertinent to the examination, and shall generally examine the witness from the lectern.

(c) *Exhibits.*

(1) Unless otherwise ordered by the Court, all documentary exhibits, or relevant parts thereof, to be used in the examination of a witness shall be prepared in sufficient quantity, i.e., one for the witness, the examining attorney, all opposing attorneys and two for the Court, for use in following the testimony.

(2) The parties shall pre-mark each document or other exhibit in the order of its possible presentation at an evidentiary hearing or trial. Each document or other exhibit shall be given a separate exhibit number. The moving party, or plaintiff, shall number its exhibits with numbers 1, 2, 3, etc.; the opposing party, or defendant, shall number its exhibits with numbers 101, 102, 103, etc.; and additional parties shall number their exhibits with successive ordinal number series, e.g., 201, 301, 401, etc.

(3) Any party submitting more than eight exhibits at an evidentiary hearing or trial shall place the exhibits in one or more binders with the exhibits separated by tabs. Each such binder shall be clearly identified on the outside cover or spine and shall contain a clear table of contents.

(4) Failure to comply with the provisions of this rule may result in nonconforming exhibits not being admitted into evidence and/or sanctions against the person not complying with the provisions of this rule.

(d) *Preliminary Data.* When a witness takes the stand, the examining attorney may, subject to objection by opposing counsel, recite such background information as the attorney desires to present concerning the witness and the connection of the witness to the litigation, and then shall solicit a response from the witness as to the correctness thereof before proceeding with specific questions on the issues in controversy.

(e) *Prohibited Citations.* Attorneys and trustees appearing in any case pending in this Court shall not make reference, in open court or in chambers, to any commercial legal publication written or edited by a judge of the Court.

Cross-Reference:

- LBR 9070-1 (*Exhibits*)

PHOTOGRAPHY, RECORDING DEVICES AND BROADCASTING

The prohibition set forth in LR 83.7 is applicable with respect to proceedings in the United States Bankruptcy Court.

Cross-Reference:

- *LR 83.7 (Photographing; Broadcasting; Televising)*

DESIGNATION OF PARTIES TO PROVIDE NOTICE

(a) Pursuant to Bankruptcy Rule 2002, the Court designates as the party to give notice of the pleading and the hearing therefor, any party who by complaint, motion or other request however described, seeks an order or other relief from the Court. Such plaintiff, movant or requesting party shall give notice to all parties in interest upon whom the granting of the requested order would have an adverse effect, but in any event notice shall always be given to:

- (1) All persons who have filed an appearance or request for notice.
- (2) In a Chapter 11 case, the creditors' committee, and any attorney for the committee or, if no committee has been appointed, to the twenty (20) largest unsecured creditors.
- (3) The United States Trustee, the case trustee, if any, the debtor or debtor in possession and the debtor's attorney of record.
- (4) If the order requested relates to the disposition of property, all creditors who hold or claim a security interest in the subject property by reason of a specific or general lien or encumbrance.

(b) With respect to notice required pursuant to Bankruptcy Rule 2002, the designation set forth in paragraph (a) of this rule shall be in effect wherever its terms apply.

(c) The clerk shall give notice of the initial date set for the section 341 meeting of creditors, but notice of any continued section 341 meeting shall be by the party causing the meeting to be continued. The clerk shall give such notice as required pursuant to Bankruptcy Rule 2002(a)(8) and 2002(f). Notice required pursuant to Bankruptcy Rule 2002(b)(1) and 2002(b)(2) shall be given by the proponent of the plan of reorganization.

COURT REPORTING

The record of court proceedings shall be made by electronic recording except as otherwise ordered by the Court in specific cases. The record shall be made and preserved by a deputy clerk designated as the Duty Recorder.

Cross-Reference:

- *LBR 5077-1 (Transcripts)*

TRANSCRIPTS

(a) *Ordering.* Official transcripts of the record of court proceedings may be obtained by arrangement with the Duty Recorder. Transcripts shall be prepared by a transcription service at the direction and instance of the Duty Recorder. Payment for such transcripts shall be by check or money order made payable to the transcription service. Checks made payable to the Duty Recorder personally or to the clerk will be refused.

(b) *Filing.* Whenever a party orders a transcript, the original of said transcript shall be filed with the Court and the party shall be furnished with the first copy.

Cross-Reference:

- *LBR 5076-1 (Court Reporting)*

FEES — GENERAL

When a fee is required for the filing of a document, it is the burden of the filing party to determine the appropriateness of the filing. Subsequent withdrawal of the matter filed does not give rise to circumstances permitting refunds. All filing fees are earned when paid. Requests for refunds on electronically filed and paid documents must be made by motion.

Cross-References:

- *LBR 1006-1 (Fees — Installment Payments)*
- *LBR 5081-1 (Fees — Form of Payment)*
- *AO 5081-1 (Fees — Request for Refund)*

FEES — FORM OF PAYMENT

The filing fee or any other required payment shall be cash, check, money order, credit card or such electronic means as may be adopted by the clerk. Personal checks or credit cards of the debtor shall not be accepted. Cash should not be sent through the mail. Checks or money orders must be made payable only to “Clerk, U.S. Bankruptcy Court.”

Cross-References:

- *LBR 1006-1 (Fees — Installment Payments)*
- *LBR 5080-1 (Fees — General)*

Part VI

Collection and Liquidation of the Estate

SALE OF ESTATE PROPERTY

(a) *Sale Procedure.* Notwithstanding the language of Bankruptcy Rule 6004(c), a sale free and clear of liens may be accomplished by means of a motion, provided the motion: (1) specifies the requisite information regarding the sale; (2) includes negative notice language that otherwise conforms to the requisites of section 102(1) of the Bankruptcy Code and Bankruptcy Rule 6004(a); and (3) affords creditors, parties in interest, and affected parties and lienholders not less than twenty (20) days notice of the contingent hearing date and of the opportunity to object to the proposed action (unless the Court shortens the notice period upon appropriate request). Objections to such motions must be timely filed pursuant to Bankruptcy Rule 6004(b). If the sale is unusually complex or involves the title to real property, the trustee (or debtor in possession) should take into account questions that may be raised as to whether a sale without Court order under this procedure will be accorded the full effect of a judicial sale in certain circumstances.

(b) *All-Asset Sales.* “All-asset” sales (herein defined to mean the sale of all or substantially all of the assets of the estate) will not be approved by the Court if submitted by a Chapter 11 debtor in possession under section 363 of the Bankruptcy Code outside of a plan of reorganization unless the following requirements are satisfied:

- (1) The proposal for the all-asset sale outside of a plan of reorganization and a proposed form of notice of same is first submitted to the Court on a motion for approval of such procedure with notice to the United States Trustee, any creditors’ committee or, in the absence of a committee, the twenty (20) largest unsecured creditors and any parties who have filed their appearances in the case, followed by a preliminary hearing before the Court to consider approving such procedure.
- (2) The proposed form of notice will serve as a functional equivalent for the type of disclosure that would be required if the sale were embodied in a plan of reorganization under section 1125 of the Bankruptcy Code.
- (3) Good cause is shown to justify the proposed method of disposing of the entire estate.

(c) *Persons Prohibited from Purchasing Estate Property.* The following persons shall not, directly or indirectly, purchase property from any bankruptcy estate:

- (1) Employees of the Bankruptcy Court.
- (2) Any person who is serving as trustee, disbursing agent, appraiser, auctioneer, examiner, accountant or attorney for a trustee in any matter before the Court.

Sales or purchases made in violation of this section (c) are unauthorized and no title shall pass by reason thereof.

(d) *Auctioneer.* The auctioneer retained by the trustee, debtor in possession or Chapter 13 debtor to sell assets out of the ordinary course of business shall file a report as required by Bankruptcy Rule 6004(f) within forty-five (45) days after the sale has been completed.

EXECUTORY CONTRACTS

Whenever a motion for approval of assumption or rejection of an unexpired lease of nonresidential real property, i.e., a commercial lease, is filed within the period established under section 365(d)(4) of the Bankruptcy Code, and it appears that the Court's calendar will not permit the motion to be heard within that period, it shall be the duty of the movant to submit with the motion for approval of assumption or rejection a proposed form of order for *ex parte* entry granting an extension of time to a date certain to assume or reject the lease sufficient for the Court to hear and resolve said motion. This action is required to avoid a contention of forfeiture of a lease under the proviso in section 365(d)(4)(A) to the effect that the lease is deemed rejected if not assumed within the period set out in the statute.

ABANDONMENT

(a) *Notice of Intent to Abandon Property.* The trustee or debtor in possession shall file notice of any proposed abandonment of property with the clerk. Upon receipt thereof, the clerk shall transmit, or cause to be transmitted, notice of the proposed abandonment to all entities in the manner specified in Bankruptcy Rule 6007(a).

(b) *Hearing on Objections to Abandonment.* Upon receipt of an objection to a proposed abandonment, the Court shall set a hearing date. The clerk shall issue a form of notice of hearing to be sent to the trustee, the objecting party, the United States Trustee, the debtor, the debtor's attorney and to all parties filing an appearance in the case.

(c) *Effective Date of Abandonment.* If no objection to a notice of intent to abandon is made within fifteen (15) days of the mailing of the notice of proposed abandonment by the clerk, then the property shall be deemed abandoned. Thereafter, the trustee or debtor in possession may obtain, upon request, a clerk's certificate setting forth the following: (1) the date of the filing of the notice of intent to abandon, (2) the name of the party who filed the notice of intent to abandon, (3) that proper service was issued in compliance with the requirements of these rules, (4) that no objection to the notice of intent to abandon has been filed, and (5) that the Court deems the property to be abandoned without further order or hearing.

Part VII-A
Adversary Proceedings

COVER SHEET

When an adversary complaint is filed, the adversary proceeding cover sheet (Form B104) is to be filed as an attachment to the complaint.

SUMMONS

The filing of a complaint, the issuance of a summons and service thereof shall be governed solely by Bankruptcy Rule 7004. The clerk shall issue, execute and transmit to the plaintiff or plaintiff's attorney an appropriate summons.

MOTION PRACTICE — IN ADVERSARY PROCEEDINGS

Apart from the initial filing of the adversary complaint and answer thereto, the procedures and formats for all motions in adversary proceedings shall comply with the requirements set forth in Part VII-B of these Local Bankruptcy Rules.

PRETRIAL PROCEDURES — PRELIMINARY PRETRIAL CONFERENCES

(a) *Scheduling.* Upon the filing of an adversary complaint, the Court shall, on its own accord and in conformity with Federal Rule of Civil Procedure 16, made applicable to adversary proceedings by Bankruptcy Rule 7016, schedule a pretrial conference.

(b) *Subjects for Consideration.* The Court may consider and take appropriate action on:

- (1) Any matter referenced in the discovery plan filed by the parties pursuant to *LBR 7026-1*.
- (2) Bifurcation of trial.
- (3) Memoranda, motions or other documents to be filed with the final pretrial statement pursuant to *LBR 7016-2*.
- (4) Any other subject listed in Federal Rule of Civil Procedure 16(c).

(c) *Alternative Dispute Resolution.* In accordance with the Alternative Dispute Resolution Act of 1998, the Court encourages parties to engage in alternative dispute resolution. *See* 28 U.S.C. §§ 651-658. If the parties agree to participate in alternative dispute resolution, they may contact the calendar clerk for assistance.

Cross-References:

- *LBR 7016-2 (Pretrial Procedures — Final Pretrial Statements)*
- *LBR 7026-1 (Discovery — General)*

PRETRIAL PROCEDURES — FINAL PRETRIAL STATEMENTS

(a) *Final Pretrial Statements.* Unless otherwise ordered by the Court, parties shall file final pretrial statements no later than ten (10) days before the final pretrial conference or the commencement of the trial if no final pretrial is held. The parties are encouraged to file a joint final pretrial statement.

(b) *Contents of Final Pretrial Statements.* Unless otherwise ordered by the Court, final pretrial statements shall contain:

- (1) A brief statement of the case assented to by all parties.
- (2) A complete written stipulation of all contested and uncontested facts or, if counsel cannot agree, separate statements of the same by each party.
- (3) A complete written stipulation of the applicable law and any disputed issues of law or, if counsel cannot agree, separate statements of the same by each party.
- (4) The name and, if not previously provided, the address and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises.
- (5) A written waiver of claims or defenses, if any.
- (6) A list of all depositions which may be read into evidence.
- (7) A list of all exhibits to be offered at trial separately identifying those which the party expects to offer and those which the party may offer if the need arises (exhibits intended to be used solely for impeachment need not be listed).
- (8) A statement of any claim for attorneys' fees, if applicable, with citation to the statutory and/or regulatory authorities relied upon as the basis for the claim.
- (9) An estimate of the length of trial.

(c) *Documents to Accompany Final Pretrial Statements.* Each party shall also file such memoranda, motions and other documents with the final pretrial statement as ordered by the Court.

(d) *Duty to Update.* If a case is continued after the parties have filed final pretrial statements, the parties shall either update their final pretrial statements or file a stipulation that no change is necessary no later than ten (10) days prior to the new final pretrial conference or the continued commencement of trial if no such final pretrial conference is scheduled.

(e) *Objections.* Unless otherwise ordered by the Court, objections to exhibits and motions *in limine* shall be filed no later than two (2) days prior to the commencement of trial.

Cross-Reference:

- *LBR 7016-3 (Pretrial Procedures — Final Pretrial Conferences)*

PRETRIAL PROCEDURES — FINAL PRETRIAL CONFERENCES

(a) *Scheduling.* The Court may schedule a final pretrial conference to be held approximately ten (10) days prior to trial.

(b) *Attendance.* Counsel with settlement authority shall attend. Parties shall attend unless excused by a prior order of the Court, in which case they shall be available by telephone. Unless otherwise ordered by the Court, the United States may be represented solely by an attorney from the United States Attorney's Office, the Department of Justice or the United States Trustee's Office, and the State of New Hampshire may be represented solely by an attorney from the Office of the Attorney General, provided that said representatives have settlement authority.

(c) *Subjects for Consideration.* In addition to the subjects listed in Federal Rule of Civil Procedure 16(c), the Court may consider and take appropriate action on the following subjects:

- (1) Evidentiary problems, including admissibility of exhibits, motions *in limine*, expert witnesses, and elimination of cumulative evidence.
- (2) Order of presentation in multi-party cases.
- (3) Order of witnesses.
- (4) Contested issues of law.
- (5) Stipulations of uncontested fact.
- (6) Possibility of settlement.
- (7) Length of trial and imposition of time limits.

(d) *Objection to Videotape Testimony.* A party objecting to a question or an answer in videotaped testimony shall provide the Court with a transcript of the question or answer at issue during the final pretrial conference.

Cross-Reference:

- *LBR 7016-2 (Pretrial Procedures — Final Pretrial Statements)*

PRETRIAL PROCEDURES — ALTERING DEADLINES

(a) *Deadlines Established by the Court.* Deadlines established by the Court shall not be changed by agreement without Court approval.

(b) *Discovery Deadlines.* A stipulation extending the time within which to respond or object to a discovery request or to take a deposition need not be approved by the Court provided the extended date by which the response is due or on which the deposition is to be taken is prior to the discovery completion date established for the case or at least thirty (30) days prior to the date set for the final pretrial conference or the commencement of the trial, whichever is earlier.

Cross-Reference:

- *LBR 9071-1 (Stipulations; Affidavits of Noncompliance)*

UNCONSTITUTIONALITY — CLAIM OF

To enable the Court to comply with 28 U.S.C. § 2403, whenever any action, suit or proceeding to which the United States or any agency, officer or employee thereof is not a party, and the constitutionality of any Act of Congress affecting the public interest is drawn into question, the party raising such question shall give written notice to the Court giving the title of the case, a reference to the questioned statute sufficient for its identification and the respects in which it is claimed to be unconstitutional.

DISCOVERY — GENERAL

(a) *Initial Disclosures.* Except to the extent otherwise stipulated or directed by order, parties shall make initial disclosures as required by Federal Rule of Civil Procedure 26(a)(1) without awaiting a discovery request. These disclosures must be made at or within fourteen (14) days after the conference of the parties required by Bankruptcy Rule 7026 and *LBR 7026-1(f)* or except as otherwise provided by Federal Rule of Civil Procedure 26(f). Any party first served or otherwise joined after the Rule 26(f) conference must make these disclosures within thirty (30) days after being served or joined unless a different time is set by stipulation or Court order.

(b) *Expert Testimony.* Parties shall make such disclosures under Federal Rule of Civil Procedure 26(a)(2)(B) as may be ordered by the Court, and the other disclosures under Federal Rule of Civil Procedure 26(a)(2) when ordered by the Court or, if the Court has not established the time for disclosure, at the time set by Federal Rule of Civil Procedure 26(a)(3).

(c) *Pretrial Disclosures.* Parties shall make disclosures mandated by Federal Rule of Civil Procedure 26(a)(3) and file objections thereto when such disclosure is mandated by *LBR 7016-2*.

(d) *Form of Disclosure; Filing.* The disclosures mandated by Federal Rule of Civil Procedure 26(a)(1), (2) and (3) shall be in writing and shall be signed and served on all parties. Parties shall not file disclosures mandated by Federal Rule of Civil Procedure 26(a)(1) and (2) unless filing is required by Court order.

(e) *Limits on Depositions and Interrogatories.* The presumptive limits in Federal Rules of Civil Procedure 30(a), 31(a) and 33(a) regarding the number of depositions and interrogatories apply to all adversary proceedings in the Court, except:

- (1) As otherwise stipulated by the parties in writing.
- (2) Pursuant to Federal Rule of Civil Procedure 26(b)(2), the Court may alter the discovery limits prescribed by the Federal Rules of Civil Procedure. Parties shall discuss issues pertaining to limits on discovery at the planning conference required by *LBR 7016-1* and shall attempt to stipulate to exceptions to discovery limits. If the parties do not so stipulate, parties may request exceptions to discovery limits at the preliminary pretrial conference held pursuant to *LBR 7016-1*.

(f) *Conference of Parties; Planning for Discovery.*

- (1) Except when otherwise ordered, at least twenty-one (21) days before the preliminary pretrial conference, the parties shall confer to consider the subjects listed in Federal Rules of Civil Procedure 16(c) and 26(f), to make or arrange for the disclosure required by Federal Rule of Civil Procedure 26(a)(1) and to develop a proposed discovery plan. The parties may agree to hold their meeting by telephone. The discovery plan shall include the parties' positions on:
 - (A) Any changes that should be made in the timing, form or requirement for disclosures under Federal Rule of Civil Procedure 26(a), including a statement as to when disclosures under Federal Rule of Civil Procedure 26(a)(1) were made or will be made.
 - (B) Any subjects on which discovery may be needed, when discovery should be completed and whether discovery should be conducted in phases or be limited to

or focused upon particular issues.

(C) Any changes that should be made in the limitations on discovery under the Federal Rules of Civil Procedure, including limitations established by Federal Rules of Civil Procedure 30(a), 31(a) and 33(a), and any other limitations the Court should order.

(D) Other orders that should be entered under Federal Rules of Civil Procedure 26(c) or 16(b) and (c).

(2) The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference, for attempting in good faith to agree on the proposed discovery plan and for submitting to the Court within fourteen (14) days after the conference, but in any event no later than four (4) days before a scheduled preliminary pretrial conference, a written report outlining the discovery plan.

(3) Except as agreed upon by the parties, ordered by the Court or provided by Federal Rule of Civil Procedure 26(a)(1), parties shall not seek discovery pursuant to Federal Rule of Civil Procedure 26 before the parties have held a planning conference as required by this rule.

(g) *Filing of Discovery Materials with Court.* Parties shall not file discovery materials with the Court unless otherwise ordered.

(h) *Form of Discovery Documents.* Parties serving interrogatories, requests for production of documents or things or requests for admissions shall provide appropriate space for the response. Parties answering these discovery requests shall either respond in the space provided or reproduce each interrogatory or request immediately preceding the response. Parties shall number all discovery requests and responses sequentially regardless of the number of different sets.

Cross-References:

- *LBR 4001-1 (Automatic Stay — Relief From)*
- *LBR 7016-1 (Pretrial Procedures — Preliminary Pretrial Conferences)*
- *LBR 7016-2 (Pretrial Procedures — Final Pretrial Statements)*
- *LBR 9014-1 (Contested Matters)*

DEFAULT — FAILURE TO PROSECUTE

When a defendant has failed to answer a properly served summons, the Court may issue an order entering default. After the default has been entered, the plaintiff must file a motion for default judgment accompanied by an affidavit setting forth:

- (a) The amount due, if any.
- (b) Whether the defendant is an infant or incompetent person.
- (c) The defendant's military service status in accordance with the requirements of 50 U.S.C. Appx. § 521 (2003).

The Court shall set a hearing on the motion for default judgment. The plaintiff shall serve on the defendant the motion, the affidavit, a proposed order, a proposed final judgment and a notice of the hearing.

Cross-References:

- *AO 9012-1 (Compliance with Servicemembers Civil Relief Act of 2003)*
- *LBF 9021-1A (Final Judgment — General)*
- *LBF 9021-1B (Final Judgment — Stipulation/Settlement)*
- *LBF 9021-1C (Final Judgment — Sum Certain)*
- *LBF 9012-1 (Compliance with the Servicemembers Civil Relief Act of 2003)*

MOTIONS FOR SUMMARY JUDGMENT

(a) Moving Party.

- (1) Supporting Documents Required.* With each motion for summary judgment filed under Bankruptcy Rule 7056, the moving party shall serve and file the following:
 - (A)* A separate supporting memorandum of law.
 - (B)* A separate statement of material facts as to which the moving party contends there is no genuine issue and that entitles the moving party to judgment as a matter of law and that also includes:
 - (i)* A description of the parties.
 - (ii)* All facts supporting venue and jurisdiction in this Court.
 - (C)* Any affidavits and other materials referred to in Federal Rule of Civil Procedure 56(e).
- (2) Form—Statement of Facts.* The separate statement of facts shall consist of short numbered paragraphs, including within each paragraph specific references to the affidavits, parts of the record and other supporting materials relied upon to support the facts set forth in that paragraph. Failure to submit such a statement constitutes grounds for denial of the motion.
- (3) Subsequent Filings by Moving Party.* If additional material facts are submitted by the opposing party pursuant to paragraph *(b)*, the moving party may submit a concise reply in the form prescribed in paragraph *(b)(1)(B)* for response. All material facts set forth in the movant's statement filed under paragraph *(b)(1)(B)(ii)* will be deemed admitted unless controverted by the statement of the moving party.

(b) Opposing Party.

- (1) Supporting Documents Required.* With each objection to a motion for summary judgment filed under Bankruptcy Rule 7056, the opposing party shall serve and file the following:
 - (A)* A separate supporting memorandum of law.
 - (B)* A separate, concise response to the movant's statement of facts that shall contain:
 - (i)* A response to each numbered paragraph in the moving party's statement, including, in the case of any disagreement, specific references to the affidavits, parts of the record and other supporting materials relied upon.
 - (ii)* A statement, consisting of short numbered paragraphs, of any additional facts that require the denial of summary judgment, including references to the affidavits, parts of the record and other supporting materials relied upon.
 - (C)* Any opposing affidavits and other materials referred to in Federal Rule of Civil

Procedure 56(e).

- (2) *Effect.* All material facts set forth in the statement required of the moving party will be deemed to be admitted unless controverted by the statement of the opposing party.

(c) *Hearing Date.* Prior to filing the motion for summary judgment, counsel shall contact the calendar clerk to obtain a hearing date. Upon the filing of a motion for summary judgment, deadlines as set forth in the pretrial order are stayed until the ruling on the motion. A new trial date will be scheduled, if necessary, upon issuance of the summary judgment order.

Cross-Reference:

- *LBR 7101 (Motion Procedure)*

SEIZURE OF PERSON OR PROPERTY

In accordance with Federal Rule of Civil Procedure 64, all remedies providing for seizure of person or property for the purpose of securing satisfaction of a judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by New Hampshire state law subject to the qualifications set forth in Federal Rule of Civil Procedure 64. New Hampshire Revised Statute Annotated 511-A and the New Hampshire Superior Court's rules and forms, with appropriate adaptation, shall apply and be followed.

Part VII-B

Motion Practice Generally

MOTION PROCEDURE

(a) *Generally.* Motion practice refers to all requests for entry of an order by the Court other than adversary proceedings covered by Bankruptcy Rules 7001-7087 and Part VII-A of these Local Bankruptcy Rules. The reference to “motions” herein is intended to cover all such requests for an order by the Court, whether denominated a “motion” or an “application” in accordance with the particular rule or statutory provision involved.

(b) *Hearing Dates.* Counsel are directed, prior to submission of moving papers requiring a hearing, to contact the calendar clerk of the judge assigned to the case in chief or adversary proceeding for which a hearing is sought to reserve a time certain for the hearing on the motion or application. (Exception: Motions for relief and motions to avoid lien are governed by *LBRs 4001-1* and *4003-2*, respectively.) The telephone numbers for the Court’s calendar clerks are set forth on the Court’s web site at <www.nhb.uscourts.gov>.

(c) *Filing Deadline.* Upon being given a reserved time and date certain on the calendar, the party seeking the hearing shall file with the clerk the original pleading to be heard along with a notice of hearing, certificate of service and proposed order. Notwithstanding the foregoing, proposed orders are not required when filing motions for relief (see *LBR 9072-1(a)*).

(d) *Implementation of Rule.* The calendar clerk and the clerk of court shall act together to ensure that *LBR 1017-2* dealing with dismissals for failure to prosecute is appropriately implemented in motion practice in the Court.

Cross-References:

- *LBR 1017-2 (Dismissal or Suspension — Case or Proceedings)*
- *LBR 7007-1 (Motion Practice — In Adversary Proceedings)*
- *LBR 9072-1 (Orders — Proposed)*

MOTION CONTENT

(a) Form.

- (1) *Title.* Motions shall be considered only if submitted separately from other filings. The caption of every pleading shall include a brief designation of the character of the pleading. The caption, or the first sentence of the motion, shall also identify the party submitting same and its relationship to the estate.
- (2) *Hearing Date and Time.* All pleadings of whatever nature related to a scheduled hearing shall contain in their style, in prominent type, the date and time of the scheduled hearing to which they pertain. Incorporation of the date and time of the hearing on the face of a pleading does not obviate the requirement of counsel to serve a separate notice of hearing specifying the date, time, courtroom and location of the hearing.
- (3) *Chapter of Case.* All pleadings shall include in their style or reference, following the case number, the chapter of the case involved, e.g., Chapter 7, 9, 11, 12 or 13, as applicable.
- (4) *Judge Initials.* The initials of the judge assigned to the pending matter shall be separated by a hyphen immediately following the docket number for the pending matter.
- (5) *BNH Identification.* All pleadings shall contain, after counsel's signature, the BNH identification number assigned to counsel by the clerk. If counsel does not have a BNH identification number at the time a document is filed, then one shall promptly be assigned to counsel by the clerk.

(b) Pleadings Required.

- (1) *Motion.* A motion shall be filed to request any action by the Court.
- (2) *Memorandum and Supporting Documents.* Every motion and objection shall be accompanied by a memorandum with citations to supporting authorities or a statement explaining why a memorandum is unnecessary. Every motion and objection that requires consideration of facts not in the record shall be accompanied by affidavits or other documents showing those facts. Except by prior leave of the Court, no memorandum in support of, or in opposition to, a nondispositive motion shall exceed fifteen (15) pages, and no memorandum in support of, or in opposition to, a dispositive motion shall exceed twenty-five (25) pages. A reply memorandum shall not be permitted without prior leave of the Court.
- (3) *Proposed Orders.* The initiating motion shall be accompanied by a proposed form of order for the relief requested, e.g., "Order Granting [caption of motion]." The form of order shall also include a line for the judge's signature and a line for the date, i.e., "Dated: [Court to insert date]." The proposed order shall be entitled "Order," not "Proposed Order." Any motion filed without a proposed order may be denied without prejudice. (See *LBF 9072-1*.)

(c) Time for Response. Except as otherwise required by law or order of the Court,

- (1) Any objection or response to a motion, except a motion for summary judgment, must be filed no later than seven (7) days prior to the date set for hearing.

(2) Any objection or response to a motion for summary judgment must be filed no later than thirty (30) days from the date the motion is filed.

(3) Any objection or response to a motion, which is scheduled for hearing less than seven (7) days from the date the motion is filed, must be filed no later than 12:00 noon (EST) on the business day prior to the date set for hearing.

(d) *Concurrence.* Any party filing a motion other than a dispositive motion shall certify to the Court that a good faith attempt has been made to obtain concurrence in the relief sought. If the moving party has obtained concurrence, a statement of concurrence shall be included in the body of the motion so the Court may consider it without delay. If concurrence has been obtained, the motion shall also contain the words “assented-to” in its title.

(e) *Extensions.* All motions for extension of time shall state: (1) the new date requested; (2) whether previous applications for extension of time on the matter have been requested, including the number and length of previous extensions; and (3) whether the opposing party or parties in interest agree or object to the requested extension. If the extension request is filed in an adversary proceeding, and the pretrial/trial date is affected, counsel must contact the calendar clerk to obtain an alternate hearing date prior to filing the motion.

Cross-References:

- *LBR 9004-2 (Caption — Pleadings/Documents, General)*
- *LBR 9072-1 (Form of Order)*

CERTIFICATE OF SERVICE — MOTIONS

(a) *Certificates of Service.* All pleadings other than the initiating complaint in an adversary proceeding shall include a certificate of service attached to the end of the pleading. The certificate of service shall identify the manner of service, the date of service and the parties who were served. The name and complete mailing address of every person or class of persons served by mail or other non-electronic means must be listed. The name of every person served electronically in accordance with *LBR 5005-4* must be listed. The pleading may be denied without prejudice for failure to comply with the rule.

(b) *Persons to be Noticed.* In all cases, notice shall be sent to the parties designated by the clerk pursuant to *LBR 5075-1* and to any other parties as may be required by the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules.

(c) *Copy of Certificate.* A copy of the certificate of service and the service list shall be served on all parties who are served with the pleading itself, unless otherwise specified by a standing procedural order in a particular case.

(d) *Sanctions.* Certificates signed by non-attorneys shall be made under penalty of perjury. Notwithstanding the requirements of *LBR 5005-4(i)*, such certificates shall not trigger the requirements for filing a Declaration Regarding Electronic Filing. Certificates by attorneys are subject to Bankruptcy Rule 9011.

Cross-References:

- *LBR 2002-1 (Notice to Creditors and Other Interested Parties)*
- *LBR 5005-4 (Electronic Filing)*
- *LBR 5075-1 (Designation of Parties to Provide Notice)*
- *LBR 9004-1 (Pleadings and Documents — Requirements of Form)*
- *AO 5005-4 (Electronic Filing)*

Part VIII

**Appeals to District Court
or
Bankruptcy Appellate Panel**

NOTICE OF APPEAL

(a) *Filing of Appeals.* An appeal from a final order or judgment or decree of the Court shall be taken to the United States District Court for the District of New Hampshire or the United States Bankruptcy Appellate Panel for the First Circuit as provided by 28 U.S.C. § 158(a) and Part VIII of the Bankruptcy Rules and shall be made by filing a notice of appeal with the clerk of the Bankruptcy Court within the time allowed by Bankruptcy Rule 8001. Direct appeals to the First Circuit as provided by 28 U.S.C. § 158(d)(2) are governed by IBR 8001.

(b) *Statement of Election.* Unless a statement of election to have the appeal heard by the United States District Court for the District of New Hampshire is filed within the time prescribed by 28 U.S.C. § 158(c)(1), the appeal shall be heard by United States Bankruptcy Appellate Panel for the First Circuit. The statement of election must be contained in a writing separate from the notice of appeal.

(c) *Extensions, Consolidation and Dismissal.* If an appeal is taken to the United States District Court for the District of New Hampshire, in accordance with the provisions of LR 77.4(c)(1), the Bankruptcy Court shall: (1) hear motions to extend deadlines and to consolidate appeals which present similar issues from a common record, (2) dismiss an appeal filed after the time specified in Bankruptcy Rule 8002, and (3) dismiss an appeal in which the appellant has failed to file a designation of items as required by Bankruptcy Rule 8006. If an appeal is taken to the United States Bankruptcy Appellate Panel for the First Circuit, the rules governing the bankruptcy appellate panel shall govern.

Cross-References:

- LR 77.4 (*Bankruptcy*)
- IBR 8001 (*Manner of Taking Appeal; Voluntary Dismissal; Certification to Court of Appeals*)

MOTION FOR LEAVE TO APPEAL

The United States District Court for the District of New Hampshire and the United States Bankruptcy Appellate Panel for the First Circuit have jurisdiction of appeals from interlocutory orders and decrees of the Court, but only by leave of the district court or bankruptcy appellate panel under 28 U.S.C. § 1334(b). Leave to appeal under 28 U.S.C. § 1334(b) shall be sought by filing a motion pursuant to Bankruptcy Rule 8003(a).

Cross-Reference:

- *IBR 8003 (Leave to Appeal)*

STAY PENDING APPEAL

The filing of a notice of appeal does not stay the operation of the appealed order. All parties are required to comply with the provisions of the order in the absence of a stay even though compliance may ultimately render the appeal moot. Appellants seeking a stay pending appeal must comply with the provisions of Bankruptcy Rule 8005. See also 11 U.S.C. §§ 363(m), 364(e) and 921(e).

Part IX
General Provisions

PLEADINGS AND DOCUMENTS — REQUIREMENTS OF FORM

(a) *Hearing Date and Time.* All pleadings of whatever nature related to a scheduled hearing shall contain in their style, in prominent type, the date and time of the scheduled hearing to which they pertain. Incorporation of the date and time of the hearing on the face of a pleading does not obviate the requirement of counsel to serve a separate notice of hearing specifying the date, time, courtroom and location of the hearing.

(b) *Chapter Number.* All pleadings shall include in their style or reference, following the case number, the chapter of the case involved, e.g., Chapter 7, 9, 11, 12 or 13, as applicable.

(c) *Assigned Judge.* The initials of the judge assigned to the pending matter shall be separated by a hyphen immediately following the docket number for the pending matter.

(d) *BNH Number.* All pleadings shall contain, after counsel's signature, the BNH identification number assigned to counsel by the clerk. If counsel does not have a BNH identification number at the time a document is filed, then one shall promptly be assigned to counsel by the clerk.

(e) *Citation of Prior Orders.* Any pleading filed with this Court that refers to a prior order of the Court shall either state the court document number of the order referred to or have attached to it a true and correct copy of such order.

(f) *Prohibited Citations.* No pleading or other paper filed with this Court shall make reference to any commercial legal publication written or edited by a judge of this Court.

(g) *Signed Originals.* Whenever a pleading or other document is required to be filed, such filing shall be effective only upon receipt and date-stamping of a signed original document, unless such pleading or document has been electronically filed in accordance with *LBR 5005-4*.

(h) *Electronic Filing.* Electronically transmitted facsimiles or other substitute copies of documents shall not be construed to be signed original pleading documents, unless such pleading or document has been electronically filed in accordance with *LBR 5005-4*.

Cross-References:

- *LBR 1070-1 (Jurisdiction)*
- *LBR 5005-4 (Electronic Filing)*
- *LBR 9004-2 (Caption — Pleadings/Documents, General)*
- *LBR 7103 (Certificate of Service — Motions)*
- *AO 5005-4 (Electronic Filing)*

CAPTION — PLEADINGS/DOCUMENTS, GENERAL

(a) *Generally.* The caption of every pleading shall include a brief designation of the character of the pleading. The caption, or the first sentence of the document, shall also identify the party submitting same and its relationship to the estate.

(b) *Contested Matters.* All contested matters to which a response is required pursuant to Bankruptcy Rule 9014 and *LBRs 4001-1, 4001-2 and 4003-2* should bear a caption at the top of the pleading similar to that used in adversary proceedings under Bankruptcy Rule 7001, with the moving party to be identified as “movant” and the responding party to be identified as “respondent.”

(c) *Consolidated/Jointly Administered Cases.* Pleadings filed in a consolidated or jointly administered case shall contain in their caption the name of the chief case and, where there is only one additional case, the name of that case as well. The case numbers of both cases shall appear, with that of the chief case listed first. When more than two cases are consolidated or jointly administered, the caption shall contain the name of the chief case followed by the abbreviation “et al.,” and only the case number of the chief case need be indicated. In every case subject to this rule, the caption shall indicate, following the listing of the debtors, the phrase “substantively consolidated” or “jointly administered,” whichever is appropriate.

Cross-References:

- *LBR 1015-1 (Joint Administration/Consolidation)*
- *LBR 4001-1 (Automatic Stay — Relief From)*
- *LBR 4001-2 (Cash Collateral)*
- *LBR 4003-2 (Lien Avoidance)*

ATTORNEYS — NOTICE OF APPEARANCE

(a) *Automatic Appearance.* The signature of an attorney for a petitioner on a bankruptcy petition or the signature of an attorney on a complaint or document in a bankruptcy case, constitutes a notice of appearance pursuant to Bankruptcy Rule 9010 and constitutes a certification that the attorney is authorized to practice in the United States District Court.

(b) *Proofs of Claim.* Notwithstanding paragraph (a) above, the signature of an attorney for a claimant on a proof of claim does not constitute a notice of appearance.

(c) *Appearance by Notice.* Any attorney other than the debtor's attorney who wishes to receive copies of notices generally sent to creditors in a case shall file a separate document entitled "Appearance" that sets forth the attorney's name, address, telephone number, client's name and relationship to the estate.

Cross-Reference:

- *LBR 2090-1 (Attorneys Admitted to Practice)*

PRO SE PARTIES

The signature of an individual not represented by counsel on a bankruptcy petition, complaint or pleading shall constitute a *pro se* appearance. A *pro se* party may not authorize another person who is not a member of the bar of the United States District Court to appear on his or her behalf. This includes a spouse or relative and any other party on the same side who is not represented by an attorney. In accordance with LR 83.6(c), corporations and unincorporated associations may not appear *pro se*.

Cross-References:

- *LR 83.6 (Appearances)*
- *LBR 1004-1 (Petition — Partnership)*
- *LBR 1004-2 (Petition — Corporation)*

SANCTIONS

If counsel for any party, without justifiable excuse, fails to appear before the Court at a hearing, to complete necessary preparations or to be prepared to proceed to trial at the time set, the defaulting party and counsel may be subject to sanctions, including the recovery of fees and expenses of the other party or parties which were incurred as a result of such failure.

CONTESTED MATTERS

The Court directs that Bankruptcy Rule 7026 and *LBR 7026-1* shall not apply to contested matters governed by Bankruptcy Rule 9014 unless otherwise ordered. The clerk, having given notice to all parties of the adoption of these Local Bankruptcy Rules, is hereby deemed to have complied with the obligations of the clerk imposed by Bankruptcy Rule 9014 with respect to notifying parties that Bankruptcy Rule 7026 is not applicable to contested matters.

Cross-Reference:

- *LBR 7026-1 (Discovery — General)*

SETTLEMENTS

Counsel shall notify the Court immediately upon the settlement of a contested proceeding. If, by the date set for the trial/evidentiary hearing, counsel have not submitted a motion and a proposed order approving the settlement and disposing of the proceeding, then counsel shall appear at the time of the scheduled hearing, if directed by the Court, and shall state the settlement on the record. Failure to file a motion and a proposed order approving the settlement within ten (10) days of the date set for the trial/evidentiary hearing shall be cause for dismissal of the contested proceeding for want of prosecution, without further notice.

JUDGMENTS AND ORDERS — ENTRY OF

Pursuant to Bankruptcy Rule 9021, no final disposition of an adversary proceeding is effective until a judgment is entered on a separate document except when a case is dismissed by notice or order under Federal Rule of Civil Procedure 41(a). Accordingly, all stipulated or proposed orders submitted to dispose of an adversary proceeding shall be accompanied by a short separate final judgment incorporating by reference the provisions of the dispositive stipulation or order and shall be substantially in the form of *LBFs 9021-1A, B or C*.

Cross-References:

- *LBF 9021-1A (Final Judgment — General)*
- *LBF 9021-1B (Final Judgment — Stipulation/Settlement)*
- *LBF 9021-1C (Final Judgment — Sum Certain)*

LOCAL RULES — GENERAL

(a) *Scope of Rules.* These Local Bankruptcy Rules (“LBRs”) are prescribed pursuant to Bankruptcy Rule 9029 and 28 U.S.C. § 2071(a) and have been adopted in compliance with 28 U.S.C. §§ 332(d)(4), 2071(b) and 2071(d) to govern the practice and procedure before the United States Bankruptcy Court for the District of New Hampshire. All prior local bankruptcy rules and administrative orders are repealed, except the Interim Bankruptcy Rules adopted on October 14, 2005, and any standing procedural administrative orders that relate only to a specific case. To the extent that a conflict appears or arises between the Local Bankruptcy Rules and Administrative Orders of this Court and any rules of the United States District Court for the District of New Hampshire or any bankruptcy rules promulgated by the Supreme Court of the United States, the latter rules shall govern.

(b) *Effective Date.* These rules become effective on *, 2006.

(c) *Definitions.*

- (1) “Attorney” or “counsel” includes any party appearing *pro se*.
- (2) “Clerk” or “clerk’s office” means the Clerk of the United States Bankruptcy Court and deputy clerks unless the context dictates otherwise.
- (3) “Court” means the bankruptcy judge to whom a proceeding or matter has been assigned.
- (4) “Judge” means United States Bankruptcy Judge.

(d) *Amendments.* Except as otherwise provided, the Court shall give notice of proposed amendments to the Local Bankruptcy Rules through publication in the *New Hampshire Bar News*, posting in the clerk’s office and posting on the Court’s web site at <www.nhb.uscourts.gov>. The Court shall allow at least thirty (30) days from the date of the notice for public comment. When the Court determines that there is an immediate need for an amendment, it may proceed without providing public notice or public comment, provided the Court promptly thereafter gives public notice and an opportunity for public comment.

(e) *Sanctions.* Except as otherwise provided by law, the Court may dismiss an action, enter a default or impose other sanctions it deems appropriate, for any violation of, or failure to comply with, these Local Bankruptcy Rules. The Court may excuse the failure to comply with any local bankruptcy rule whenever justice so requires.

LOCAL RULES — GENERAL ORDERS

The Court may adopt administrative orders for the conduct and disposition of proceedings before it and may from time to time alter and amend the same, provided that such administrative orders shall not be inconsistent with the provisions of the Bankruptcy Code, the Bankruptcy Rules or these Local Bankruptcy Rules. Administrative orders shall be numbered according to the uniform numbering system prescribed by the Judicial Conference for local rules and cited as “AO.” Copies of such administrative orders, together with any forms referred to therein, shall be available on the Court’s web site at <www.nhb.uscourts.gov> or by request, from the clerk’s office.

EXHIBITS

Whenever exhibits are entered in a proceeding, they do not become a permanent part of the files and records of the Court. Upon the conclusion of any proceeding in which exhibits have been entered and the expiration of the applicable limit on appeals, the offering party or parties shall have 180 days within which to request the return and make arrangements for recovering said exhibits. Whenever a party or parties fail to make such request and arrangements for recovery on a timely basis, the clerk is hereby empowered to, and shall dispose of, said exhibits without further order of the Court.

Cross-Reference:

- *LBR 5072-1 (Courtroom Decorum)*

STIPULATIONS; AFFIDAVITS OF NONCOMPLIANCE

(a) *Conditional Terms.* A stipulation, judgment or order filed and entered by the Court containing conditional terms, including automatic dismissal, conversion or relief from stay, is not itself self-executing. The moving party must submit an affidavit by a person with personal knowledge stating that the conditions have not been met along with a proposed order, which shall set forth with specificity the relief to be entered by the Court. Said relief may be granted by the Court two (2) business days after the filing and serving of a copy of same to all opposing parties.

(b) *Enforceability.* No understanding or arrangement between parties or attorneys affecting the course or conduct of trial shall be enforceable for any purpose unless the same is in writing or made a part of the record by oral representation. No stipulation shall have the effect of relieving the parties from a prior order of the Court, including a scheduling order, unless such stipulation is approved by the Court in writing.

Cross-References:

- *LBR 7016-4 (Pretrial Procedures — Altering Deadlines)*
- *LBR 9019-1 (Settlements)*
- *LBR 9072-1 (Orders — Proposed)*
- *LBF 5005-4B (Declaration Regarding Electronic Filing for Documents Other Than Petitions, Schedules and Amendments to Schedules)*

ORDERS — PROPOSED

(a) All moving pleadings, with the exception of motions for relief, shall be accompanied by a proposed order that sets forth with specificity the relief to be entered by the Court. The proposed order shall be entitled “Order,” not “Proposed Order,” and shall be substantially in the form of *LBF 9072-1*.

(b) *Generally.* If counsel is directed to submit a proposed order or judgment following a hearing or trial, the proposed order or judgment must be submitted within (10) ten days following the hearing or trial, or as the Court otherwise directs. Failure to submit the proposed order or judgment within the time required may result in denial of the moving pleading or complaint without prejudice.

(c) *Stipulations.* Orders based on stipulations shall state in their first paragraph: (1) the date the stipulation was orally approved by the Court, or (2) the reason why the stipulation does not require notice, or (3) that the stipulation has been duly noticed and no objection has been filed and that no hearing is required.

Cross-References:

- *LBR 3017-1 (Disclosure Statement — Approval)*
- *LBR 3020-1 (Chapter 11 — Confirmation)*
- *LBR 3022-1 (Final Report/Decree (Chapter 11))*
- *LBR 4001-2 (Cash Collateral)*
- *LBR 9071-1 (Stipulations; Affidavits of Noncompliance)*
- *LBF 9072-1 (Form of Order)*

HEARINGS

(a) *Scheduling Hearings.* The scheduling of all motion hearings is controlled by the deputy clerk designated as the calendar clerk. Except as provided in *LBRs 4001-1* and *4003-2* of these rules, counsel are required, prior to the submission of pleadings or moving papers, to contact the calendar clerk to reserve a time certain for any required hearing. The motion must be accompanied by a notice of hearing, certificate of service and proposed order. Pleadings not in compliance may be denied without prejudice to a new filing in compliance with this rule. (Exception: Motions for relief and motions to avoid lien are governed by *LBRs 4001-1* and *4003-2*, respectively.)

(b) *Expedited Hearings.* In any instance in which exigent circumstances demand an expedited hearing, counsel shall contact the calendar clerk prior to filing a motion to expedite a hearing. The motion to expedite shall be a separate pleading, which shall state in clear terms why the hearing needs to be expedited and how soon the parties want the hearing. A separate proposed order shall accompany the motion, which shall include a blank line for insertion by the Court of the date and time of the hearing.

Cross-References:

- *LBR 4001-1 (Automatic Stay — Relief From)*
- *LBR 4003-2 (Lien Avoidance)*
- *LBR 7007-1 (Motion Practice — In Adversary Proceedings)*
- *LBR 7101 (Motion Procedure)*

TELEPHONIC APPEARANCES AND HEARINGS

(a) *Telephonic Appearances.* Where telephonic appearances are permitted pursuant to *AO 9074-1*, parties shall follow the procedures as specified therein. All other telephonic appearances in matters other than those permitted by *AO 9074-1* may be considered by the Court only upon timely request to the calendar clerk.

(b) *Video Conference Hearings.* Any request for a video conference hearing shall be timely made to the calendar clerk.

(c) *Telephone Numbers.* The telephone numbers for the Court's calendar clerks may be obtained on the Court's web site at <www.nhb.uscourts.gov>.

Cross-Reference:

- *AO 9074-1 (Telephonic Appearances)*

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